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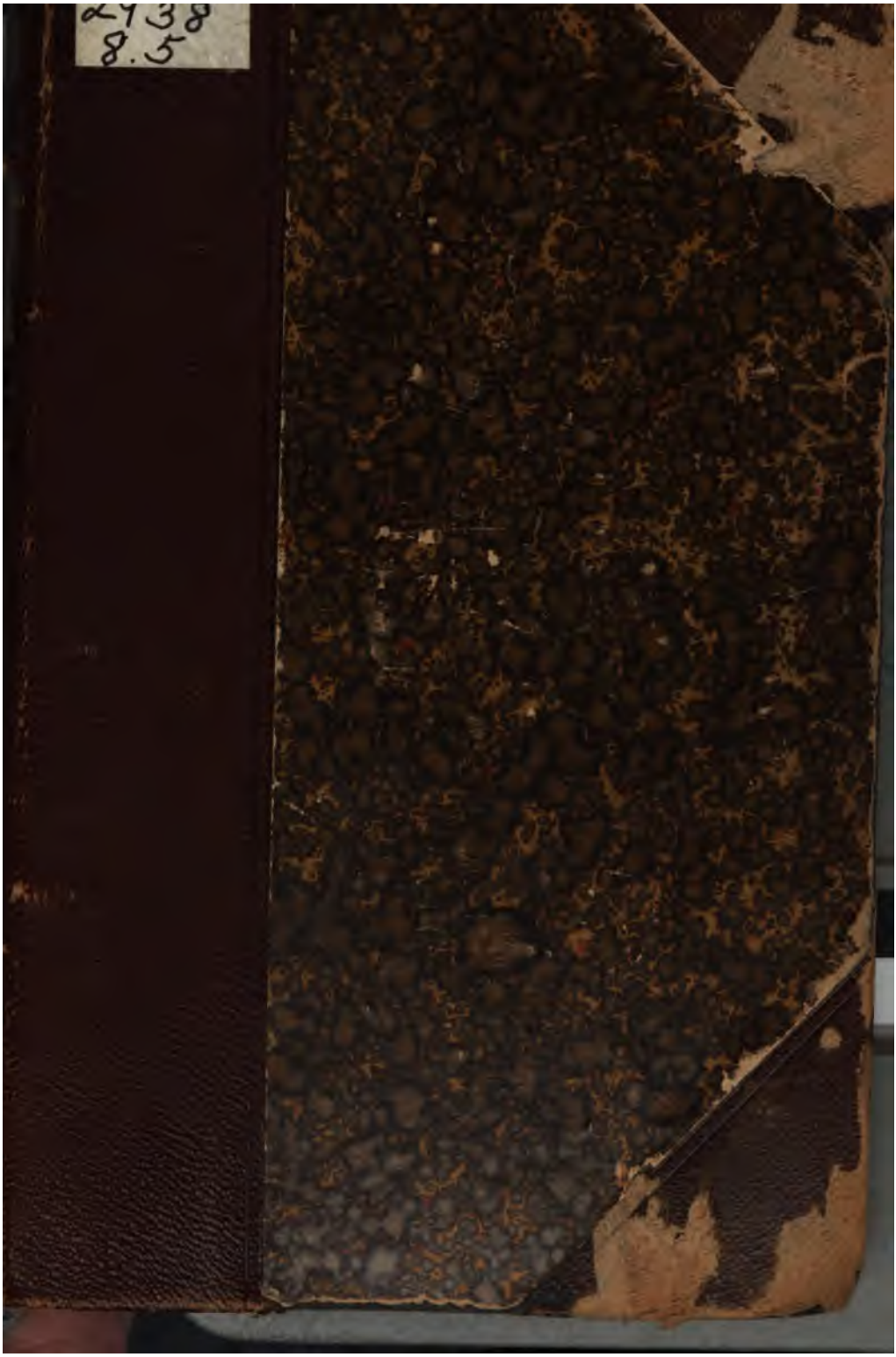

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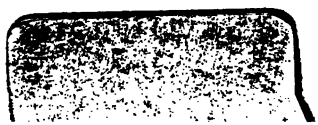

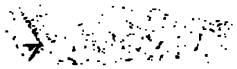

AN

ESSAY

ON THE CONSTITUTIONAL POWER OF GREAT-BRITAIN OVER THE COLONIES IN AMERICA;

WITH THE

RESOLVES

OF THE COMMITTEE FOR THE PROVINCE OF PENNSYLVANIA,

AND THEIR

INSTRUCTIONS TO THEIR REPRESENTATIVES IN ASSEMBLY.

PRINTED AT PHILADELPHIA, IN THE YEAR 1774.

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EXTRACT

FROM THE

MINUTES OF THE COMMITTEE.

SATURDAY, JULY 16, [1774.]

THE committee for the [province of *Pennsylvania*] met according to adjournment.

JOHN DICKINSON, Doctor WILLIAM SMITH, JOSEPH READ, JOHN KIDD, ELISHA PRICE, WILLIAM ATLEE, JAMES SMITH, JAMES WILSON, DANIEL BROADHEAD, JOHN OKELY, and WILLIAM SCULL, are appointed to prepare and bring in a draught of instructions.

Monday, *July* 18. * The committee appointed to bring in instructions, reported, that they had made a draught, which they laid upon the table.

Moved, That they be read——which was done.

Tuesday, *July* 19. Upon a motion made and seconded, agreed that the draught of instructions brought in by the committee, and which were read, be re-committed to the same committee.

Wednesday, *July* 20. The committee having brought in a draught of instructions, the same were debated, amended and agreed to.

Thursday, *July* 21. The instructions were signed by the chairman.——The committee in a body, waited on the assembly then sitting, and presented the same.

It having been moved, that the essay of the instructions first proposed to be given to the honour-

* The committees of the counties having been invited, by the committee for the city and county of *Philadelphia*, to meet them at *Philadelphia* on the 15th of *July*; this committee thought it their duty, to make some preparation in the business, that was to be laid before the provincial committee by them. On the 4th of *July* they appointed a committee for this purpose; and this measure enabled those appointed by the provincial committee to bring in a draught so soon.

able assembly of *Pennsylvania*, by the provincial committee assembled at *Philadelphia*, the 18th instant, might be abridged, leaving out the argumentative part, so as to be more proper for instructions, the same was agreed to; but resolved at the same time, that the whole work ought to be published, as highly deserving the perusal and serious consideration of every friend of liberty within these colonies.

Agreed unanimously, That the thanks ‡ of this committee be given from the chair to JOHN DICK-

‡ *Mr. Dickinson* being absent this day, on account of the funeral of a relation, the next day the chairman, in a very obliging manner, delivered to him from the chair the thanks of the committee; to which he replied:

"Mr. CHAIRMAN,

"I heartily thank this respectable assembly for the honour they have conferred upon me, but want words to express the sense I feel of their kindness. The mere accidents of meeting with particular books, and conversing with particular men, led me into the train of sentiments, which the committee are pleased to think just; and others, with the like opportunities of information, would much better have deserved to receive the thanks, they now generously give. I consider the approbation of this company as an evidence, that they entertain a favourable opinion of my good intentions, and as an incouragement for all to apply themselves, in these unhappy times, to the service of the public, since even small endeavours to promote that service, can find a very valuable reward. I will try, during the remainder of my life, to remember my duty to our common country, and, if it be possible, to render myself worthy of the honour for which I now stand so deeply indebted.

"I thank you, sir, for the polite and affectionate manner, in which you have communicated the sense of the committee to me."

INSON, esquire, for the great assistance they have derived from the laudable application of his eminent abilities, to the service of his country in the above performance.

Extract from the minutes,

CHARLES THOMSON, *clerk of the committee.*

PREFACE.

WHEN the committee for preparing a draught of instructions was appointed, it was considered, whether it would not be proper, to form some kind of a sketch, however imperfect it might be, of all the grievances, of the colonies, and of course of their constitutional rights.

SUCH an attempt, tho' very rude, might be improved by better hands; and it seemed absolutely necessary, no longer to confine ourselves to occasional complaints and partial remedies, but, if possible, to attain some degree of certainty concerning our lives, liberties and properties.

IT was perceived, that if the instructions should be formed on this plan, they would com-

prehend many and very important positions, which it would be proper to introduce, by previously assigning the reasons, on which they were founded. Otherwise, the positions might not appear to the committee to be just. From this consideration it became necessary, to render the instructions long and argumentative; and whoever candidly reflects on the importance of the occasion, will think such a method very justifiable.

THE draught of instructions being brought into the provincial committee and read, and no objection being made to any of the principles asserted in them, it was not thought necessary, that the argumentative part should continue any longer in them. The committee, that brought in the draught, therefore moved, that this part of the instructions might be separated from the rest. Whereupon the draught was re-committed, for this purpose, to the committee, that brought it in. This was done.

SEVERAL additions have been made to the other part, now called " An Essay," &c. since the vote for publishing. The additions are distinguished by crotchets, thus [ ] and in these it was not thought necessary to observe the ſtile of instructions. The notes have been almost entirely added since the vote.

August 1, 1774.

"OF the various instructions, on this occasion, those which were drawn up by a convention of delegates, from every county in the province of Pennsylvania, and presented by them, in a body, to the constitutional assembly, were the most precise and determinate. By these it appears that the Pennsylvanians were disposed to submit to the acts of navigation, *as they then stood*, and also to settle a certain annual revenue on his majesty, his heirs and successors, subject to the controul of parliament, and to satisfy the demands of the East-India company, *provided their grievances were redressed*, and *an amicable compact was settled*, which, by establishing American rights in the manner of a new magna charta, would have precluded future disputes."

RAMSAY'S *History of the American Revolution, vol.* I. *page* 134.

RESOLUTIONS, &c.

At a provincial meeting *of* deputies *chosen by the several counties, in* Pennsylvania, *held at* Philadelphia, *July* 15, 1774, *and continued by adjournments from day to day.*

PRESENT,

For the city and county of Philadelphia,

Thomas Willing,	Joseph Moulder,
John Dickinson,	Anth. Morris, Jun.
Peter Chevalier,	George Gray,
Edward Pennington,	John Nixon,
Thomas Wharton,	Jacob Barge,
John Cox,	Thomas Penrose,
Joseph Reed,	John M. Nesbit,
Tho. Wharton, jun.	Jonathan B. Smith,
Samuel Erwin,	James Mease,
Thomas Fitzsimons,	Thomas Barclay,
Dr. William Smith,	Benjamin Marshall,
Isaac Howell,	Samuel Howell,

Adam Hubley,
George Schlosser,
Samuel Miles,
Thomas Mifflin,
Christoph. Ludwic,
William Moulder,
John Roberts,
John Bayard,
William Rush,
Charles Thomson.

Bucks,

John Kidd,
Henry Wynkoop,
Joseph Kirkbride,
John Wilkinson,
James Wallace.

Chester,

Francis Richardson,
Elisha Price,
John Hart,
Anthony Wayne,
Hugh Lloyd,
John Sellers,
Francis Johnson,
Richard Reiley.

Lancaster,

George Ross,
James Webb,
Joseph Ferree,
Matthias Slough,
Emanuel Carpenter,
William Atlee,
Alexander Lowry,
Moses Erwin.

York,

James Smith,
Joseph Donaldson,
Thomas Hartley.

Cumberland,

James Wilson,
Robert Magaw,
William Irvine.

Berks,

Edward Biddle,
Daniel Broadhead,
Jonathan Potts,
Thomas Dundas,
Christopher Schultz.

Northampton,

William Edmunds,
Peter Kechlein,
John Okeley,
Jacob Arndt.

Northumberland,

William Scull,
Samuel Hunter.

Bedford,

George Woods.

Westmoreland,

Robert Hannah,
James Cavett.

THOMAS WILLING, Chairman,

CHARLES THOMSON, Clerk.

AGREED that, in case of any difference in sentiment, the question be determined by the deputies voting by counties.

THE letters from *Boston* of the 13th of *May* were then read, and a short account given of the steps taken in consequence thereof, and the measures now pursuing in this and the neighbouring provinces; after which the following RESOLVES were passed.

UNAN. I. THAT we acknowledge ourselves, and the inhabitants of this province, liege subjects of his majesty king *George* the third, to whom they and we owe and will bear true and faithful allegiance.

UNAN. II. That as the idea of an unconstitutional independence on the parent state is utterly abhorrent to our principles, we view the unhappy differences between *Great-Britain* and the colonies with the deepest distress and anxiety of mind, as fruitless to her, grievous to us, and destructive of the best interests of both.

UNAN. III. That it is therefore our ardent desire, that our ancient harmony with the mother country should be restored, and a perpetual love and union subsist between us, on the principles of the constitution, and an interchange of good offices, without the least infraction of our mutual rights.

UNAN. IV. That the inhabitants of these colonies are intitled to the same rights and liberties WITHIN these colonies, that the subjects born in *England* are intitled to WITHIN that realm.

UNAN. V. That the power assumed by the parliament of *Great-Britain* to bind the people of these colonies, " by statutes IN ALL CASES " *whatsoever*," is unconstitutional; and therefore the source of these unhappy differences.

UNAN. VI. That the act of parliament, for shutting up the port of *Boston*, is unconstitutional; oppressive to the inhabitants of that town; dangerous to the liberties of the *British* colonies; and therefore, that we consider our brethren at *Boston* as suffering in the common cause of these colonies.

UNAN. VII. That the bill for altering the administration of justice in certain criminal cases within the province of *Massachusetts-Bay*, if pass-

ed into an act of parliament, will be as unconstitutional, oppressive and dangerous, as the act abovementioned.

UNAN. VIII. That the bill for changing the constitution of the province of *Massachusetts-Bay*, established by charter, and enjoyed since the grant of that charter, if passed into an act of parliament, will be unconstitutional and dangerous in its consequences to the *American* colonies.

UNAN. IX. That there is an absolute necessity, that a congress of deputies from the several colonies be immediately assembled, to consult together, and form a general plan of conduct to be observed by all the colonies, for the purposes of procuring relief for our suffering brethren, obtaining redress of our grievances, preventing future dissensions, firmly establishing our rights, and restoring harmony between *Great-Britain* and her colonies on a constitutional foundation.

UNAN. X. That, although a suspension of the commerce of this large trading province, with *Great-Britain*, would greatly distress multitudes of our industrious inhabitants, yet that sacrifice, and a much greater, we are ready to offer for the preservation of our liberties; but, in tenderness to the people of *Great-Britain*, as well as of this coun-

try, and in hopes that our just remonstrances will, at length, reach the ears of our gracious sovereign, and be no longer treated with contempt by any of our fellow subjects in *England*, it is our earnest desire, that the congress should first try the gentler mode of stating our grievances, and making a firm and decent claim of redress.

XI. RESOLVED, by a great majority, That yet notwithstanding, as an unanimity of counsels and measures is indispensibly necessary for the common welfare, if the congress shall judge agreements of non-importation and non-exportation expedient, the people of this province will join with the other principal and neighbouring colonies, in such an association of non-importation from and non-exportation to *Great-Britain* as shall be agreed on, at the congress.

XII. RESOLVED, by a majority, That if any proceedings of the parliament, of which notice shall be received, on this continent, before or at the general congress, shall render it necessary in the opinion of that congress, for the colonies to take farther steps than are mentioned in the *eleventh* resolve; in such case, the inhabitants of this province shall adopt such farther steps, and do all in their power to carry them into execution.

UNAN. XIII. That the venders of merchandize of every kind, within this province ought not to take advantage of the resolves relating to non-importation in this province or elsewhere; but that they ought to sell their merchandize, which they now have, or may hereafter import, at the same rates they have been accustomed to do within three months last past.

UNAN. XIV. That the people of this province will break off all trade, commerce, and dealing, and will have no trade, commerce, or dealing of any kind with any colony on this continent, or with any city or town in such colony, or with any individual, in any such colony, city or town, which shall refuse, decline, or neglect to adopt, and carry into execution such general plan as shall be agreed to in congress.

UNAN. XV. That it is the duty of every member of this committee to promote, as much as he can, the subscription set on foot, in the several counties of this province, for the relief of the distressed inhabitants of *Boston*.

UNAN. XVI. That this committee give instructions on the present situation of public affairs to their representatives, who are to meet next week in assembly, and request them to appoint a proper

number of persons to attend a congress of deputies from the several colonies, at such time and place as may be agreed on, to effect one general plan of conduct, for attaining the great and important ends mentioned in the *ninth* resolve.

INSTRUCTIONS

FROM THE

COMMITTEE

TO THE

REPRESENTATIVES IN ASSEMBLY MET.

GENTLEMEN,

THE dissensions between *Great-Britain* and her colonies on this continent, commencing about ten years ago, since continually increasing, and at length grown to such an excess as to involve the latter in deep distress and danger, have excited the good people of this province to take into their serious consideration the present situation of public affairs.

THE inhabitants of the several counties qualified to vote at elections, being assembled on due notice, have appointed us their deputies; and in consequence thereof, we being in provincial committee met, esteem it our indispensible duty, in pursuance of the trust reposed in us, to give you such instructions, as, at this important period, appear to us to be proper.

We, speaking in their names and our own, acknowledge ourselves liege subjects of his majesty king *George* the *third*, to whom "we will be faithful and bear true allegiance."

Our judgments and affections attach us, with inviolable loyalty, to his majesty's person, family and government.

We acknowledge the prerogatives of the sovereign, among which are included the great powers of making peace and war, treaties, leagues and alliances *binding us*———of appointing all officers, except in cases where other provision is made, by grants from the crown, or laws approved by the crown——of confirming or annulling every act of our assembly within the allowed time——and of hearing and determining finally, in council, appeals from our courts of justice. "The prerogatives are limited," *as a learned judge observes,——" by bounds so certain and notorious, that it is impossible to exceed them, without the consent of the people on the one hand, or without, on the other, a violation of that *original contract*,‡ which, in all

* 1 *Blackstone* 237.

‡ And though we are strangers to the original of most states, yet we must not imagine that what has been here said, concerning the manner in which civil societies are formed, is an arbitrary fiction. For since it is certain, that all ci-

states impliedly, and in ours most expressly, subsists between the prince and subject.——For these prerogatives are vested in the crown *for the support*

vil societies had a beginning, it is impossible to conceive, how the members, of which they are composed, could unite to live together dependent on a supreme authority, without supposing the covenants above-mentioned.

BURLEMAQUI's *Princ. of pol. law. vol.* 2. *page* 29.

And in fact, upon considering the primitive state of man, it appears most certain, that the appellations of sovereigns and subjects, masters and slaves, are unknown to nature. Nature has made us all of the same species, all equal, all free and independent of each other; and was willing that those, on whom she has bestowed the same faculties, should have alls the same rights. It is therefore beyond all doubt, that in this primitive state of nature, no man has of himself an original right of commanding others, or any title to sovereignty.

There is none but God alone that has of himself, and in consequence of his nature and perfections, a natural, essential, and inherent right of giving laws to mankind, and of exercising an absolute sovereignty over them. The case is otherwise between man and man, they are of their own nature as independent of one another, as they are dependent on God. This liberty and independence is therefore a right naturally belonging to man, of which it would be unjust to deprive him against his will. *Idem, page* 38.

There is a beautiful passage of *Cicero's* to this purpose.[a] *Nothing is more agreeable to the supreme Deity, that governs this universe, than civil societies lawfully established.*

When therefore we give to sovereigns the title of God's vicegerents upon earth, this does not imply that they derive their authority immediately from God, but it signifies only, that by means of the power lodged in their hands, and with which the people have invested them, they maintain, agreeably to the views of the Deity, both order and peace, and thus procure the happiness of mankind. *Idem. page* 40.

[a] Nihil est illi principi Deo, qui omnem hunc mundum regit, quod quidem in terris fiat acceptius, quam consilia coetusque hominum jure sociati, quæ civitates appellantur. *Somn. Scip chap.* 3.

of society, and do not intrench any farther on our *natural* liberties, than is expedient for the maintenance of our *civil*."

BUT it is our misfortune, that we are compelled loudly to call your attention to the consideration of another power, totally different in kind——limited, as it is alledged, by no "bounds," and ‡ "wearing a most dreadful aspect," with regard to *America*. We mean the power claimed by parliament, of right, to bind the people of these colonies by statutes, "*in all cases whatsoever*"——a power,

But it will be here objected, that the scripture itself says, that every man ought to be subject to the supreme powers, because they are established by God.[b] I answer, with *Grotius*, that men have established civil societies, not in consequence of a divine ordinance, but of their voluntary motion, induced to it by the experience they had had of the incapacity which separate families were under, of defending themselves against the insults and attacks of human violence. From thence (he adds) arises the civil power, which *St. Peter*, for this reason, calls *a human* power,[c] though in other parts of scripture it bears the name of a divine institution,[d] because God has approved of it as an establishment useful to mankind.[e]

All the other arguments, in favour of the opinion we have been here refuting, do not even deserve our notice. In general, it may be observed, that never were more wretched reasons produced than upon this subject, as the reader may be easily convinced by reading *Puffendorf* on the law of nature and nations, who, in the chapter corresponding to this, gives these arguments at length, and completely refutes them.[f] *Idem. page* 42, 43.

‡ 1 *Blackstone* 270.

[b] Rom. xiii. [c] 1 Ep. chap. 2. v. 13. [d] Rom. xiii. 1.
[e] Grotius of the right of war and peace. book I. chap. 4 sec. 7, 12. No. 3.
[f] See the law of nature and nations, book VII. chap. 3.

as we *are not*, and, from local circumstances, *cannot* be represented there, utterly subversive of our natural and civil liberties——past events and reason convincing us, that there never existed, and never can exist, a state *thus* subordinate to another, and yet retaining the slightest portion of freedom or happiness.

THE import of the words above quoted needs no descant; for the wit of man, as we apprehend, cannot possibly form a more clear, concise, and comprehensive *definition* and *sentence* of slavery, than these expressions contain.

THIS power claimed by *Great-Britain*, and the late attempts to exercise it over these colonies, present to our view two events, one of which must *inevitably* take place, if she shall continue to insist on her pretensions. Either, the colonists will sink from the rank of freemen into the class of slaves, overwhelmed with all the miseries and vices, proved by the history of mankind to be inseparably annexed to that deplorable condition: or, if they have sense and virtue enough to exert themselves in striving to avoid this perdition, they must be involved in an opposition dreadful even in contemplation.

Honour, *justice* and *humanity* call upon us to hold, and to transmit to our posterity, that liberty, which we received from our ancestors. It is not our duty to leave wealth to our children: but it is our duty, to leave liberty to them. No infamy, iniquity, or cruelty, can exceed our own, if we, born and educated in a country of freedom, intitled to its blessings, and knowing their value, pusillanimously deserting the post assigned us by Divine Providence, surrender succeeding generations to a condition of wretchedness, from which no human efforts, in all probability, will be sufficient to extricate them; the experience of all states mournfully demonstrating to us, that when arbitrary power has been established over them, even the wisest and bravest nations, that ever flourished, have, in a few years, degenerated into abject and wretched vassals.

So alarming are the measures already taken for laying the foundations of a despotic authority of *Great-Britain* over us, and with such artful and incessant vigilance is the plan prosecuted, that unless the present generation can interrupt the work, *while it is going forward*, can it be imagined, that our children, debilitated by our imprudence and supineness, will be able to overthrow it, *when completed?* Populous and powerful as these colonies may grow, they will still find arbitrary domination

not only strengthening with their strength, but exceeding, in the swiftness of its progression, as it ever has done, all the artless advantages that can acrue to the governed. *These* advance with a regularity, which the divine Author of our existence has impressed on the laudable pursuits of his creatures: but despotism, * unchecked and unbounded by *any laws*——never satisfied with what has been done, while any thing remains to be done, for the

* As virtue is necessary in a republic, and in a monarchy honor, so fear is necessary in a despotic government: with regard to virtue, there is no occasion for it, and honor would be extremely dangerous.

Here the immense power of the prince is devolved intirely upon those to whom he is pleased to intrust it. Persons capable of setting a value upon themselves would be likely to create revolutions. Fear must therefore depress their spirits, and extinguish even the least sense of ambition.

MONTESQUIEU's Spirit of Laws, *vol.* I. *book* III. *chap.* 9.

An idea of despotic power.

When the savages of Louisiana are desirous of fruit, they cut the tree to the root, and gather the fruit.§ This is an *emblem* of despotic government.

Idem. book V. *chap.* 13.

The principle of despotic government is fear; but a timid, ignorant, and faint spirited people have no occasion for a great number of laws.

Every thing ought to depend here on TWO or THREE ideas; therefore there is no necessity that any new notions should be added. When we want to break a horse, we take care not to let him change his master, his lesson, or his pace. Thus an impression is made on his brain by two or three motions and no more. *Idem. book.* V. *chap.* 14.

§ Edifying letters, 11 coll. p. 315.

accomplishment of its purposes——confiding, and capable of confiding, only *in the annihilation of all opposition*—holds its course with such unabating and destructive rapidity, that the world has become its prey, and at this day, *Great-Britain* and her dominions excepted, there is scarce a spot on the globe inhabited by civilized nations, where the vestiges of freedom are to be observed.

To us therefore it appears, at this alarming period, our duty to God, to our country, to ourselves, and to our posterity, to exert our utmost ability, in promoting and establishing harmony between *Great-Britain* and these colonies, *on a constitutional foundation.*

For attaining this great and desirable end, we request you to appoint a proper number of persons to attend a congress of deputies from the several colonies, appointed, or to be appointed, by the representatives of the people of the colonies respectively in assembly, or convention, or, by delegates chosen by the counties generally in the respective colonies, and met in provincial committee, at such time and place as shall be generally agreed on: and that the deputies from this province may be induced and encouraged to concur in such measures, as may be devised for the common welware, we think it proper, particularly to inform you, how far, we

apprehend, they will be supported in their conduct by their constituents.

[*In this place was inserted the argumentative part, which in this publication is called* "*An* "*Essay.*"]

THE assumed parliamentary power of internal legislation, and the power of regulating trade, as of late exercised, and designed to be exercised, we are thoroughly convinced, will prove unfailing and plentiful sources of dissensions to our mother country and these colonies, unless some expedients can be adopted to render her secure of receiving from us every emolument, that can in justice and reason be expected, and us secure in our lives, properties, and an equitable share of commerce.

MOURNFULLY revolving in our minds the calamities, that, arising from these dissensions, will most probably fall on us and our children, we will now lay before you the particular points we request of you to procure, if possible, to be finally decided; and the measures that appear to us most likely to produce such a desirable period of our distresses and dangers. We therefore desire of you——

FIRST. That the Deputies you appoint, may be instructed by you strenuously to exert them-

selves, at the ensuing congress, to obtain a renunciation, on the part of *Great-Britain*, of all powers under the statute of the 35th of *Henry* the eighth, chapter the 2d.——of all powers of internal legislation——of imposing taxes or duties internal or external——and of regulating trade, except with respect to any new articles of commerce, which the colonies may hereafter raise, as silk, wine, &c. reserving a right to carry these from one colony to another——a repeal of all statutes for quartering troops in the colonies, or subjecting them to any expence on account of such troops——of all statutes imposing duties to be paid in the colonies, that were passed at the accession of his present majesty, or before this time; which ever period shall be judged most adviseable——of the statutes giving the courts of admiralty in the colonies greater power than courts of admiralty have in *England* ——of the statutes of the 5th of *George* the second, chapter the 22d, and of the 23d of *George* the second, chapter the 29th——of the statute for shutting up the port of Boston——and of every other statute particularly affecting the province of *Massachusetts-Bay*, passed in the last session of parliament.

In case of obtaining these terms, it is our opinion, that it will be reasonable for the colonies to engage their obedience to the acts of parliament com-

monly called the acts of navigation, and to every other act of parliament declared to have force, at this time, in these colonies, other than those above mentioned, and to confirm such statutes by acts of the several assemblies. It is also our opinion, that taking example from our mother country, in abolishing the " courts of wards and liveries, tenures " in capite, and by knight's service, and purvey- " ance," it will be reasonable for the colonies, in case of obtaining the terms before mentioned, to settle a certain annual revenue on his majesty, his heirs and successors, subject to the controul of parliament, and to satisfy all damages done to the *East-India* company.

THIS our idea of settling a revenue, arises from a sense of duty to our sovereign, and of esteem for our mother country. We know and have felt the benefits of a subordinate connexion with her. We neither are so stupid as to be ignorant of them; nor so unjust as to deny them. We have also experienced the pleasures of gratitude and love, as well as advantages from that connexion. The impressions are not yet erased. We consider her circumstances with tender concern. We have not been wanting, when constitutionally called upon, to assist her to the utmost of our abilities; insomuch that she has judged it reasonable to make us recompences for our overstrained exertions: and we now

think we ought to contribute more than we do, to the alleviation of her burthens.

WHATEVER may be said of these proposals on either side of the *Atlantic*, this is not a time, either for timidity or rashness. We perfectly know, that the great cause now agitated, is to be conducted to a happy conclusion, only by that well tempered composition of counsels, which firmness, prudence, loyalty to our sovereign, respect to our parent state, and affection to our native country, united must form.

BY such a compact, *Great-Britain* will secure every benefit, that the parliamentary wisdom of ages has thought proper to attach to her. *From her alone* we shall continue to receive manufactures.———*To her alone* we shall continue to carry the *vast multitude of enumerated articles* of commerce, the exportation of which, her policy has thought fit to *confine to herself*. *With such parts of the world only*, as she has appointed us to deal, we shall continue to deal; and *such commodities only*, as she has permited us to bring from them, we shall continue to bring. The *executive* and *controuling* powers of the crown will retain their present full force and operation. We shall contentedly labour for her as affectionate *friends*,

in time of tranquility; and cheerfully spend for her, as dutiful *children*, our treasure and our blood, in time of war. She will receive a *certain income* * from us, without the trouble or expence of collecting it—without being constantly disturbed by complaints of grievances, which she cannot justify, and will not redress. In case of war, or in any

* The train of officers, employed by *Great-Britain*, consume a very large part of what she takes from us. She therefore increases our distresses to make up for that consumption. They will hereafter grow more and more oppressive, we more and more uneasy, she more and more disturbed. We could raise the same sum in a much more *easy*, *equal*, and *cheap* manner, than she can do. The attention of small states extends much more efficaciously and beneficially to every part of the territories, than that of the administration of a vast empire. The representatives in assembly, *who are taxed, when the people are taxed, and accountable to them*, will have double motives to take care, that the *raising* and *expending* money is managed in the best way. The house of commons would not bear to examine *every particular* relating to the just taxation of *every county* on this continent, and to *settle all the accounts fairly*. If they could go through the immense labour, it would be impossible for them to do any other business. In short, by not doing it, they would be *unjust*; by doing it, they would be *useless*. Equity and reason demonstrate, that such a power belongs not to them. We have had remarkable instances on this continent some few years ago, of the crown being *according to all the forms of business* charged with articles, that never went to the use of the crown. These were *perquisites*, and who could be so puritanical as to blame the civil word. It is said, our barracks cost about £.8000 of this money—and that the barracks at *another place*, not deserving a comparison with ours, cost £.40,000 sterling. We built our own, *ourselves*, and were as saving and careful as we could be, it may be supposed. If money is raised upon us by parliament; of one thousand pounds, taken out of our pockets, not one hundred, in all probability, will be usefully applied to the service of the crown. Deficiencies will ensue—they must be supplied—other acts are made—still others—till our [h] "*unrepresented blades of grass*," too fre-

[h] Speech of Lord Camden. 1 Blackstone, 270.

emergency of distress to her, we shall also be ready and willing to contribute all aids within our power: and we solemnly declare, that on such oc-

quently and closely cut down and exposed to the burning heat of an unsetting sun, ever "*in its meridian*," perish to their deepest roots.

"There is not upon earth (says the excellent *Gordon*) a nation, which having had *unaccountable* magistrates, has not felt them to be crying and consuming mischiefs. In truth, *where they are most limited*, it has been often as much as *a whole people* could do to restrain them to their trust, and to keep them from violence; and such frequently has been their propensity to be lawless, that nothing but a violent death could cure them of their violence. Some men *will never think they have enough*, whilst they can take more; *nor be content with a part*, when they can seize the whole." [i]

"That the business of most kingdoms has been ill managed, proceeds from this; it imports the *lower* rank of men only, and the *people* (whose cries seldom reach the prince, till it is too late, and till all is past remedy) that matters should be *frugally* ordered, because taxes must arise from *their* sweat and labour. But the *great* ones, who heretofore have had the prince's ear and favour, or who hoped to have him in their possession, were swayed by *another sort of interest*; they like profusion, as having had a prospect to be gainers by it, they can easily set their account even with the state; a *small charge* upon their land is *more* than *balanced* by a *great place*, or a *large pension*." [k]

See the lord keeper *North*'s account of *abuses* in the conduct and *disposal* of the public money in the time of king *Charles* II. [l] Those who, *in our times*, are the conductors of the same kind of dirty work, may compare *the modern* ingenious ways and means with those of their worthy predecessors.

Among others, pretended want of money in the treasury, in order to have a pretence for giving an exorbitant price for necessaries.——Lending the CROWN AT EIGHT PER CENT. money which was raised at five and six. Paying with the public money, *pretending it to be private*, and taking interest. *De-*

[i] *Cato*'s LET. III. 78.
[k] *Daven.* II. 262. [l] *Dalrymp.* MEM. II. 84.

casions, if we or our posterity shall refuse, neglect or decline thus to contribute, it will be a mean and manifest violation of a plain duty, and a weak

preciating the public debts and funds, buying them of the holders at half their worth, and afterwards by interest getting them paid in full. Pretending to give up all power in recommending to places for a consideration, and then insisting on recommending still, and so getting both ways. *Rolling over losses upon the crown, or public, while the gain was to sink into private pockets.* A father stopping a large sum in his own hand, which was to have been paid the public creditors. *Before he can be brought to account, he dies. The money sinks into the pocket of his heir.* He obtains a pardon of all his father's debts. Gross frauds in office found out. Then *new officers and salaries set up* as checks. The new prove *as great knaves* as the old, and form *a scheme of collusion* and mutual understanding. *But the public pays for all, and the power of the court is strengthened.* An old placeman begs leave to sell. Pockets the money, and by and by, through interest, gets a new place *gratis.* Extravagant men squander their own money *in their public employments* of embassadors, governors, &c. and charge the public with *more than they have really spent*, while what they really spent was ten times more than necessary. *The business of old offices transferred to new:* but *the profits of the old still kept up, though become sinecures.* An old servant of the public retires upon a pension. He who succeeds him, by interest, gets it continued to him. Another gets an addition to his salary, and then sells his place for a great deal more than it cost him, and so an additional load is laid on the public: for the addition must be continued, because the place was bought. An annual sum is granted by the public for a public use, as keeping up a harbour, or the like. *A private man, by interest, gets a grant of the jobb:* the public concern is neglected, and the public pocket picked. Crown lands perpetually begged and given away to strengthen the court interest. The crown constantly kept in debt, and parliament solicited to pay those debts occasioned *merely by the voracity of the court.* Commanders of fleets order a *superfluous quantity of stores.* By collusion between them and the store masters, this superfluous quantity is *sold again to the king*, and the money sunk in their pockets. Sometimes the store-masters *gave receipts* for *more than was received* into the king's stores, and the *money was divided among the plunderers.* The king's works done *by the day*, whereas it would

and wicked desertion of the true interests of this province, which ever have been and must be bound up in the prosperity of our mother country. Our union, founded on mutual compacts and mutual

have been cheaper by the great. Money pretended to be coined *gratis*. Lists of large sums newly coined produced. But the contrivance was to make the pieces unequal, and then the too heavy pieces were carried back to the mint, and the profit sunk in private pockets, &c.

Secret service is a huge cloke thrown over an immense scene of corruption; and *under this cloke we must not peep*. Our court-men tell us, there *must be* large sums expended in this way, and those sums *cannot be* accounted for; because the *services* done for them must never be *known*. But we find, that the commons *A. D.* 1708 addressed queen *Anne* for accounts of pensions paid for *secret service* to members of parliament, or to any persons in trust for them; and that "the queen *ordered* said account to be *laid before the house*."[m]

Contracts are a great fund of ministerial influence. It is well known, that our ministry do not accept the most *reasonable* offer; but the offer which is made by those who have the greatest *parliamentary* interest; and that in war time, every man, who *furnishes* for the *government*, is *enriched*; in *France* the *contrary*; which shews, that we manage our public money much *worse* than the *French* ministry do theirs. In the late war it is notorious, that several of our *purveyors* and *commissaries* got estates sufficient to set them up for earls and dukes. But as *Burnet*[n] says, "the regard, that is shewn to members of *parliament* among us, causes that few *abuses* can be *inquired* into, or *discovered*.

POL. DISQU. *book* V. *page* 274—277.

What redress could a poor plundered, unrepresented colony obtain against a *Verres*, supported by a strong parliamentary influence. We know what several governors of *Minorca* have dared to do. A governor of *Gibraltar* has ventured to oppress even the garrison of that important place. The very drudgery of examining accounts, would probably secure him. If cast, the injuries could not be recompensed. A successor might prove as bad—"*Victrix provincia plorat*." The victorious province weeps.

[m] DEB. COM. IV. 119. [n] HIST. OWN TIMES, III. 279.

benefits, will be indissoluble, at least more firm, than an union perpetually disturbed by disputed rights and retorted injuries.

SECONDLY. If all the terms abovementioned cannot be obtained, it is our opinion, that the measures adopted by the congress for our relief should *never* be *relinquished* or *intermitted*, until *those* relating to the troops,—internal legislation,—imposition of taxes or duties hereafter,—the 35th of *Henry* the 8th, chapter the 2d,——the extension of admiralty courts,—the port of *Boston* and the province of *Massachusetts-Bay*, are obtained. Every modification or qualification of *these* points in our judgment, should be inadmissible. To obtain them, we think it may be prudent to settle some revenue as above-mentioned, and to satisfy the *East-India* company.

THIRDLY. If neither of these plans should be agreed to, in congress, but some other of a similar nature shall be framed, though on the terms of a revenue, and satisfaction to the *East-India* company, and though it shall be agreed by the congress to admit no modification or qualification in the terms they shall insist on, we desire your deputies may be instructed to concur with the other deputies in it; and we will accede to, and carry it into execution as far as we can.

FOURTHLY. As to the regulation of trade—— we are of opinion, that by making some few amendments, the commerce of the colonies might be settled on a firm establishment, advantageous to *Great-Britain* and them, requiring and subject to no future alterations, without mutual consent.——We desire to have this point considered by the congress; and such measures taken, as they may judge proper.

IN order to obtain redress of our common grievances, we observe a general inclination among the colonies of entering into agreements of non-importation and non-exportation. We are fully convinced, that such agreements would withhold very large supplies from *Great-Britain*, and no words can describe our contempt and abhorrence of those colonists, if any such there are, who, from a sordid and ill-judged attachment to their own immediate profit, would pursue that, to the injury of their country, in this great struggle for all the blessings of liberty. It would appear to us a most wasteful frugality, that would lose every important possession by too strict an attention to small things, and lose also even these at the last.——For our part, we will cheerfully make any sacrifice, when necessary, to preserve the freedom of our country. But other considerations have weight with us.——We wish every mark of respect to be paid to his ma-

jesty's administration. We have been taught from our youth to entertain tender and brotherly affections for our fellow subjects at home. The interruption of our commerce must distress great numbers of them. This we earnestly desire to avoid. We therefore request, that the deputies you shall appoint may be instructed to exert themselves, at the congress, to induce the members of it, to consent to make a full and precise state of grievances and a decent yet firm claim of redress, and to wait the event, before any other step is taken. It is our opinion, that persons should be appointed and sent home to present this state and claim, at the court of *Great-Britain.*

If the congress shall choose to form agreements of non-importation and non-exportation immediately, we desire the deputies from this province will endeavour to have them so formed as to be binding upon all, and that they may be PERMANENT, should the public interest require it. They cannot be *efficacious*, unless they can be *permanent*; and it appears to us that there will be a danger of their being infringed, if they are not formed with great caution and deliberation. We have determined in the present situation of public affairs to consent to a stoppage of our commerce with *Great-Britain* only; but in case any proceedings of the parliament, of which notice shall be received on this continent,

before or at the congress, shall render it necessary, in the opinion of the congress to take further steps, the inhabitants of this province will adopt such steps, and do all in their power to carry them into execution.

THIS extensive power we commit to the congress, for the sake of preserving that unanimity of counsel and conduct, that alone can work out the salvation of these colonies, with a strong hope and trust, that they will not draw this province into any measure judged by us, who must be better acquainted with its state than strangers, highly inexpedient. Of this kind, we know any other stoppage of trade, but of that with *Great-Britain*, will be. Even this step we should be extremely afflicted to see taken by the congress, before the other mode above pointed out is tried. But should it be taken, we apprehend, that a plan of restrictions may be so framed, agreeable to the respective circumstances of the several colonies, as to render *Great-Britain* sensible of the imprudence of her counsels, and yet leave them a necessary commerce. And here it may not be improper to take notice, that if redress of our grievances cannot be wholly obtained, the extent or continuance of our restrictions may, in some sort, be proportioned to the rights we are contending for, and the degree of relief afforded us. This mode will render our *opposition* as *perpetual*

as our *oppression*, and will be *a continual claim and assertion of our rights*. We cannot express the anxiety, with which we wish the consideration of these points to be recommended to you. We are persuaded, that if these colonies fail of unanimity or prudence in forming their resolutions, or of fidelity in observing them, the opposition by non-importation and non-exportation agreements will be ineffectual; and then we shall have only the alternative of a more dangerous contention, or of a tame submission.

UPON the whole, we shall repose the highest confidence in the wisdom and integrity of the ensuing congress: and though we have, for the satisfaction of the good people of this province, who have chosen us for this express purpose, offered to you such instructions, as have appeared expedient to us, yet it is not our meaning, that by these or by any you may think proper to give them, the deputies appointed by you should be restrained from agreeing to any measures, that shall be approved by the congress. We should be glad the deputies chosen by you could, by their influence, procure our opinions hereby communicated to you to be as nearly adhered to, as may be possible: but to avoid difficulties, we desire that they may be instructed by you, to agree to any measures that shall be approved by the congress, the inhabitants

of this province having resolved to adopt and carry them into execution.—Lastly—We desire the deputies from this province, may endeavour to procure an adjournment of the congress, to such a day as they shall judge proper, and the appointment of a standing committee.

AGREED, that *John Dickinson*, *Joseph Read*, and *Charles Thomson*, be a committee to write to the neighbouring colonies, and communicate to them the resolves and instructions.

AGREED, that the committee for the city and county of *Philadelphia*, or any fifteen of them, be a committee of correspondence for the general committee of this province.

Extract from the Minutes,

CHARLES THOMSON, *clerk of the committee.*

AN

ESSAY,* &c.

THE authority of parliament has within these few years been a question much agitated; and great difficulty, we understand, has occurred, in tracing the line between the rights of the mother country and those of the colonies. The modern doctrine of the former is indeed truly remarkable; for though it points out, what *are not* our rights, yet we can never learn from it, what *are* our rights. As for example——*Great-Britain* claims a right to take away nine-tenths of our estates——have we a *right*

* This piece has been written in such haste, under so great indisposition, and amidst such a confusion of public affairs, that it is hoped, its inaccuracies will be looked upon with indulgence. If longer time could have been bestowed upon its correction, it would have been at least shorter, if not more exact. The first appointment of a committee to form a draught of instructions, was made on the fourth of last month. See note on the extract, dated the 18th of July.

to the remaining tenth? No.——To say we have, is a "traiterous" position, denying her supreme legislature. So far from *having property*, according to these late found novels, *we are ourselves a property*.

We pretend not to any considerable share of learning; but, thanks be to divine Goodness, common sense, experience, and some acquaintance with the constitution, teach us a few salutary truths on this important subject.

Whatever difficulty may occur in tracing the line, yet we contend, that by the laws of God, and by the laws of the constitution, a line there must be, beyond which her authority cannot extend. For all these laws are ‡ "grounded on reason, full of justice, † and true equity," mild, and calculated to promote the freedom and welfare of men. These

‡ Parlt. *Deb.* 7. 409. "What of that? Shall not we give judgment, because it is not adjudged in the books before? We will give judgment *according to reason*, and if there be no reason in the books, I will not regard them."

Speech of *Anderson*, lord chief justice of the queen's bench, in the reign of *Elizabeth*. Gouldsb. Rep. 96. *edit.* 1653.

† "It seems to me, that the *natural justice*, which is a duty of man, ought to be stiled the *parent, and nourisher, of every other virtue*: and assuredly, without this habit, a man can neither moderate his desires, nor be brave, nor wise. For, it is a *harmony*, and peace, of the whole soul; with a full concert of words, and actions: and the dominion of such a habit may be rendered more conspicu-

objects never can be attained by abolishing every restriction, on the part of the *governors*, and extinguishing every right, on the part of the *governed*.'

SUPPOSE it be allowed, that the line is not *expressly drawn*, is it thence to be concluded, there is no *implied* line? No English lawyer, we presume, will venture to make the bold assertion. "The "king may reject what bills, may make what "treaties, may coin what money, may create what "peers, and may pardon what offences, *he pleas-*

ons, if we examine the other habits of virtue. For the good of these is private, respecting the individual; but the good of *natural justice* respects whole systems, and throughout the universe."—

In the *celestial system* of the world, as it marshals out the universal rule of things, which are thus decreed by God; it is *providence*, and *harmony*, and *right*. In a *civil state*, it is justly called *peace*, and *good order*. In a *domestic state*, it is the *like mindedness* of husband, and wife, towards each other; the *good will* of subordinate members. In the *body*, it is *health*, and *symmetry* of parts; which are principal things, and much beloved by every living creature. In the *soul*, it is *wisdom*; that wisdom which arises amongst men, from the *knowledge of causes*, and from *natural justice*.

Since therefore, this habit doth thus instruct, and preserve, the whole and every part; rendering all the same, in heart, and in tongue, why may it not be saluted, by the universal voice; *the parent and nourisher of every virtue.*"

POL. PYTH. LUC. *apud* STOBÆUM, *page* 105. *edit. Tigur*, 1559.

"Of LAW there can be no less acknowledged, than that her seat is the bosom of GOD, her voice the harmony of the world: all things in heaven and earth do her homage, the very least as feeling her care, and the greatest as not exempt from her power."

HOOKER'S, *Ecclesiastical Policy, book the first, at the end.*

" *es.*" ‡ But is his prerogative respecting these branches of it, unlimited? By no means. The words following those next above quoted from the " commentaries on the laws of *England*," are— " unless where the constitution hath *expressly*, or " *by evident consequence*, laid down some *excep-* " *tion* or BOUNDARY; *declaring*, that thus far the " prerogative shall go, and no farther." There are " some boundaries" then, besides the " ex- " press exceptions;" and according to the strong expression here used, " the constitution *declares* " there are." What " evident consequence" forms those " boundaries?"

. . . . . .

THE happiness of the people is the end, and, if the term is allowable, we would call it the body of the constitution. Freedom is the spirit or soul. As the soul, speaking of nature, has a right to prevent or relieve, if it can, any mischief to the body of the individual, and to keep it in the best health; so the soul, speaking of the constitution, has a right to prevent, or relieve, any mischief to the body of the society, and to keep that in the best health. The " evident consequence" mentioned, must mean a tendency to injure this health, that is, to diminish the happiness of the people—or it must mean nothing. If therefore the constitution " DECLARES *by*

‡ 1 BLACKSTONE'S COM. 250.

"*evident consequence*," that a tendency to diminish the happiness of the people, is a proof, that power exceeds a "boundary," beyond which it ought not to "go;" the matter is brought to this single point, whether taking our money from us without our consent, depriving us of trial by jury, changing constitutions of government, and abolishing the privilege of the writ of *habeas corpus*, by seizing and ‡ carrying us to *England*, have not a greater tendency to diminish our happiness, than any enormities a king can commit under pretence of prerogative, can have to diminish the happiness of the subjects in *England*. To come to a decision upon this point, no long time need be required. To make this comparison, is stating the claim of parliament in the most favourable light: for it puts

‡ "Of great importance to the public is the preservation of this personal liberty: for if once it were left in the power of any, the highest magistrate, to imprison *arbitrarily*, whomever he or *his officers* thought proper, (as in *France* it is daily practised by the crown) *there would soon be an end of all other rights and immunities*."——"A natural and regular consequence of this personal liberty is, that every *Englishman* may claim *a right to abide in his own country so long as he pleases*, and not to be driven from it unless by the sentence of law. Exile or transportation is a punishment *unknown to the common law*."——"The king cannot constitute a man lord lieutenant of *Ireland* against his will, nor make him a foreign ambassador. For this might in reality be no more than an honorable exile." 1 BLACKSTONE, 135 to 138.

"These precedents collected by the reverend and learned judge, chief justice *Anderson*, and all written with his own hand, do fully resolve for the maintenance of the *ancient* and *fundamental* point of *liberty of the person*, to be regained by *habeas corpus*, when any one is imprisoned." PARL. *Hist.* 7. 418.

the *assumed* power of parliament, to do, "IN ALL "CASES WHATSOEVER," *what they please*, upon the same footing with the *acknowledged* power of the king, "to make what peers——pardon what "offences, &c. *he pleases*." But in *this* light, that power is not intitled to be viewed. Such is the wisdom of the *English* constitution, that it "declares" the king may transgress a "boundary "laid down by evident consequence," even by using *the power* with which he is *expressly* vested by the constitution, in doing *those very acts* which he is *expressly* trusted by the constitution to do—as by creating too many or improper persons, peers; or by pardoning too many or too great offences, &c. But has the constitution of ENGLAND *expressly* "declared," that the parliament of *Great-Britain* may take away the money of *English* colonists without their consent, and deprive them of trial by jury, &c? It cannot be pretended. True it is, that it has been solemnly declared by *parliament*, that *parliament has* such a power. But that declaration leaves the point just as it was before: for if parliament had not the power before, the declaration could not give it. Indeed if parliament is really "omnipotent," * that power is just and constitutional.

* 1 BLACKSTONE, 161.

We further observe, that the constitution has not expressly drawn the line beyond which, if a king, shall "go," resistance becomes *lawful*. The learned author of those commentaries, that notwithstanding some human frailties, do him so much honour, has thought proper, when treating of this subject, to point out the "*precedent*" of the revolution, as fixing the line. We would not venture any reflection on so great a man. It may not become us. Nor can we be provoked by his expressions concerning colonists; because they perhaps contain his real, though hasty sentiments. Surely, it was not his intention to condemn those excellent men, who casting every tender consideration behind them, nobly presented themselves against the tyranny of the unfortunate and misguided *Charles*'s reign; those men, whom the house of commons, even after the restoration, would not suffer to be censured.

We are sensible of the objection that may be made, as to drawing a line between rights on each side, and the case of a plain violation of rights.—We think it not material. Circumstances have *actually* produced, and may again produce this question.———What conduct of a prince renders resistance lawful? *James* the second and his father violated *express rights of their subjects*, by doing what *their own express rights* gave them no

title to do, as by raising money, and levying troops, without consent of parliament. It is not even *settled*, what violation of those will justify resistance. But may not some future prince, confining himself to the exercise of *his own express rights*, such as have been mentioned, act in a manner, that will be a transgression of a "boundary" laid down by "evident consequence," the "constitution *declar-* "*ing* he should go no further?" May not this exercise of these *his express rights*, be so far extended, as to introduce *universal confusion* and a *subversion of the ends of government?* The whole may be oppressive, and yet any single instance legal. The cases may be improbable; but we have seen and now feel events once as little expected. Is it not *possible*, that one of these cases *may* happen;——if it *does*, has the constitution *expressly* drawn, a line, beyond which resistance becomes lawful? It has not. But it may be said, a king *cannot arm* against his subjects—he *cannot raise money*, without consent of parliament. This is the constitutional check upon him. If he should, it would be a violation of *their express rights*. If *their purses* are shut, *his power* shrinks. True. Unhappy colonists! Our money may be taken from us—and standing armies established over us, without our consent—every *expressly* declared constitutional check dissolved, and the modes of opposition for relief so contracted, as to leave us only

the miserable alternative of supplication or violence. And these, it seems, are the liberties of *Americans.*——*Because* the constitution has not "*expressly declared*" the line between the rights of the mother country and *those* of her colonists, *therefore*, the latter have *no rights.*——A logic, equally edifying to the heads and hearts of men of sense and humanity.

We assert, a line there must be, and shall now proceed with great deference to the judgment of others, to trace that line, according to the ideas we entertain: and it is with satisfaction we can say, that the records, statutes, law-books, and most approved writers of our mother country, those "dead "but most faithful counsellors" (as sir *Edward Coke* calls them) "who cannot be daunted by fear, nor "muzzled by affection, reward, or hope of pre-"ferment, and therefore may safely be believed," confirm the principles we maintain.

Liberty, life, or property, can, with no consistency of words or ideas, be termed a *right* of the *possessors*, while *others* have a *right* of taking them away *at pleasure*. The most distinguished authors, that have written on government, declare it to be "instituted *for the benefit of the people;* "and that it never will have this tendency, where

"it is *unlimited.*" Even conquest* itself is held not to destroy all the rights of the conquered. Such is the merciful reverence judged by the best and

* "But in order to say something more particular concerning this subject, let us observe that the natural state of nations in respect to each other, is that of society and peace. This society is likewise a state of equality and independence, which establishes a parity of right between them; and engages them to have the same regard and respect for one another. Hence the general principle of the law of nations is nothing more than the general law of sociability, which obliges all nations that have any intercourse with one another, to practise those duties to which individuals are naturally subject.

"These remarks may serve to give us a just idea of that art, so necessary to the directors of states, and distinguished commonly by the name of *polity.* Polity considered with regard to foreign states, is that ability and address by which a sovereign provides for the preservation, safety, prosperity and glory of the nation he governs, by respecting the laws of justice and humanity; that is, without doing any injury to other states, but rather by procuring their advantage, as much as in reason can be expected. Thus the polity of sovereigns is the same as prudence among private people; and as we condemn in the latter any art or cunning, that makes them pursue their own advantage to the prejudice of others, so the like art would be censurable in princes, were they bent upon procuring the advantage of their own people by injuring other nations. The *reason of state*, so often alledged to justify the proceedings or enterprises of princes, cannot really be admited for this end, but inasmuch as it is reconcileable with the common interest of nations, or which amounts to the same thing, with the unalterable rules of sincerity, justice, and humanity."

"*Grotius* indeed acknowledges that the law of nature is common to all nations; yet he establishes a positive law of nations contradistinct from the law of nature; and reduces this law of nations to a sort of human law, which has acquired a power of obliging in consequence of the will and consent of all or of a great many nations.[o] He adds, that the maxims of this law of nations are proved by the perpetual practice of people, and the testimony of historians.

[o] See *Grotius*, rights of war and peace: preliminary discourse, sect. 18. and book 1. chap. 1. sect. 14.

wisest men to be due to human nature, and frequently observed even by conquerors themselves.

PROTECTION and obedience are reciprocal duties.

" But it has been justly observed that this pretended law of nations, contradistinct from the law of nature, and invested nevertheless with a force of obliging, whether people consent to it or not, is a supposition destitute of all foundation.[p]

" For 1. all nations are with regard to one another in a natural independence and equality. If there be therefore any common law between them, it must proceed from God their common sovereign.

" 2. As for what relates to customs established by an express or tacit consent among nations, these customs are neither of themselves, nor universally, nor always obligatory. For from this only that several nations have acted towards one another for a long time after a particular manner in particular cases, it does not follow that they have laid themselves under a necessity of acting always in the same manner for the time to come, and much less that other nations are obliged to conform to these customs.

" 3. Again; these customs are so much the less capable of being an obligatory rule of themselves, as they may happen to be bad or unjust. The profession of a corsair or pirate, was by a kind of consent, esteemed a long while as lawful, between nations that were not united by alliance or treaty. It seems likewise, that some nations allowed themselves the use of poisoned arms in time of war.[q] Shall we say that these were customs authorised by the law of nations, and really obligatory in respect to different people? Or shall we not rather consider them as barbarous practices; practices from which every just and well governed nation ought to refrain. We cannot therefore avoid appealing always to the law of nature, the only one that is really universal, whenever we want to judge whether the customs established between nations have any obligatory effect.

[p] See Puffendorf, law of nature and nations, book 2. chap. 3. sect. 23. with Barbeyrac's notes.

[q] See Virgil, Æneid, book 10. verse 139. with the 15th note of the Abbe des Fontaines.

IN fine, a power of government, in its nature tending to the misery of the people, as a power that is *unlimited*, or in other words, a power *in which*

"4. All that can be said on this subject is, that when customs of an innocent nature are introduced among nations; each of them is reasonably supposed to submit to those customs, as long as they have not made any declaration to the contrary. This is all the force or effect that can be given to received customs; but a very different effect from that of a law, properly so called."

BURLAMAQ. *Princ. of nat. law*, I *vol. page* 196—199.

These reflections of the learned and benevolent professor, deserve great consideration, in estimating the claims of belligerent powers to interfere in the commerce of neutral nations.

The law of nations, as it is called, partakes too largely of articles imposed by the stronger on the weaker powers: but these can never abrogate the eternal laws of reason and justice. It is also worthy of observation, that those articles may be so altered, that the amendments will have a direct tendency to discourage wars, and consequently to promote the blessings of peace.

"But I will conclude with that which I find reported by sir *John Davis*, who was the king's sergeant; and so, by the duty of his place, would no doubt maintain, to the uttermost of his power, the king's prerogative royal; and yet it was by him thus said, in those reports of his upon the case of *tanistry customs*," "That the kings of *England* always have had a monarchy royal, and not a monarchy signoral; where, under the first, saith he, the subjects are free men, and have property in their goods, and freehold and inheritance in their lands; but, under the latter, they are as villains and slaves, and have property in nothing. And therefore, saith he, when a royal monarch makes a new conquest, yet, if he receives any of the nation's ancient inhabitants into his protection; they, and their heirs after them, shall enjoy their lands and liberties according to the laws." And there he voucheth this precedent and judgment following, given before *William the conqueror* himself, *viz.*

"That one *Sherborn*, at the time of the conquest, being owner of a castle and lands in *Norfolk*, the conqueror gave the same to one *Warren* a *Norman*; and,

the people have no share, ‡ is proved to be, by reason and the experience of all ages and countries, cannot be a *rightful* or *legal* power. For, as an excellent bishop of the church of *England* argues,

Sherborn dying, the heir claiming the same by descent according to the law, it was, before the conqueror himself, adjudged for the heir, and that the gift thereof by the conqueror was void." [r] PARL. DEBATES, 7 *vol. page.* 384.

See also *Puffendorf*'s law of nature and nations, book. 3. chap. 8. and book. 8. chap. 6.

‡ "In a free state, every man, who is supposed *a free agent*, ought to be, in some measure *his own governor*, and therefore a branch, at least of the *legislative power ought to reside in the whole body of the people.* And this power, when the territories of the state are small and its citizens easily known, should be expressed by the people in their aggregate or collective capacity, as was wisely ordained in the petty republics of *Greece*, and the first rudiments of the Roman state. But this will be highly inconvenient, when the public territory is extended to any considerable degree, and the number of citizens is increased. In so large a state as ours, it is therefore very wisely contrived that the people should do that by their representatives, which it is impracticable to perform in person."

1 BLACKSTONE, 158. 159.

The above quoted words are sufficient of themselves to refute the notion of "virtual representation" of *Americans* in parliament.

As to the argument drawn from the similitude between the case of *those* in *England*, not qualified to vote by their property, though possessed of a considerable share, as proprietors of the funds——the *East-India* company——merchants——manufacturers, &c. and the case of colonists, the true answer is, that there is no resemblance whatever between the cases. A few propositions will prove it: but it may be proper to premise—1st. If *representation* was *intended* by the *constitution* of *England*, a *complete* representation was intended; for the reason of having *any*, requires having a complete one, as being the *best*.

[r] See Davis's reports, Lond. 1628. page 41.

‡ " the *ends of government* cannot be answered by a total dissolution of all happiness at present, and of all hopes for the future."

2dly.——If a *complete* representation was *intended* by the constitution, every *defect* in the representation, is *against* the *intention* of the *constitution*. 3dly. If a respectable part of the people in *England* is not represented, *it is a defect*. 4thly. If therefore, the *intention* of the *constitution* is to be regarded *as the constitution*, it involves *a plain absurdity*, to infer *a greater* defect being *constitutional*, from a *smaller* defect which is *unconstitutional*. 5thly. The *intention* of the constitution *must be* regarded, and *practices inconsistent* with its design, must be amended by it, if the *happiness* which it means to promote and secure, is to be regarded. 6thly. If there is not such a *representation* in *England*, as the constitution requires, there *ought* to be. As to the resemblance above supposed. 1st. If many inhabitants of *England* HAVE NOT a right to vote in the choice of members of the house of commons, there are many who HAVE. 2dly. *Not one* inhabitant of the colonies, *has* that right. 3dly. *Some* representation is better than *none*, though a *complete* one cannot be obtained. The *first*, is a *defect* of *mode*, the *latter* an *extinction* of the *substance*. There is, to a *nice* observer of nature, a *perceptible* difference between a *deformed* man and a DEAD man. 4thly. Proprietors of the funds, &c. tho' they have no right to such vote, *as proprietors*, &c. may yet have it under another character, *as freeholders*, &c. 5thly. When acting *as freeholders*, *&c.* they may take care of their interests *as proprietors*, *&c.* for—6thly. *Their being proprietors*, *&c.* does not *disqualify* them, from acquiring and enjoying a right to such vote *by becoming freeholders*, *&c.* but—7thly. By acquiring and enjoying a right to such vote, the *colonists* must *cease* to be inhabitants of the colonies—— 8thly. Their *being inhabitants of the colonies* therefore *disqualifies* them from acquiring and enjoying the right to such vote.—9thly. If those not intitled to such vote in *England* were not bound by statutes made *there*, they would not be bound by statutes, nor taxed *at all*, though possest of great property—but 10thly.—The colonists are *bound and taxed* by the acts of their assemblies. 11thly. Even those not intitled to such vote in *England*, and incapable of obtaining it, have this protection, that *representatives* and *their electors* are bound by the laws made, as well as *the rest of the people*—and the connections between the *representatives*, their *electors*, and the *rest of the people*, all living together in the same kingdom,

‡ HOADLEY'S Disc. on government.

THE just inference therefore from these premises, would be an exclusion of *any* power of parliament over these colonies, rather than the admission of an *unbounded* power.

are so many and so intimate, that even the *actually unrepresented* cannot be affected, unless the *representatives* and *their electors* are affected also. 12thly. Totally different is the condition of colonists, if bound by statutes generally.—By the acts of parliament for raising a revenue in *America*, the commons use the words, "*give* and *grant*." Can men give and grant what they have not? Did any of those acts take a single penny out the pocket of a single *giver* and *grantor*? No. So far from it, that if there is any truth in the proverb, and money saved is money got, these "*dona ferentes*" gentlemen put money into their pockets by their [s] "loyal and dutiful" generosity. *Every individual* of them acquired by bestowing. Pretentions *thus* to *give*, are such contradictions to fact and sense, that in *making* them a sanction of injustice is sought from a principle of the constitution, and in *describing* them, a solecism in speech becomes a proper expression. It must be acknowledged however, that the commons are more than sound divines, for they improve upon the text, [t] and "*count* their *loss* for *gain*."

Statutes might grind us, while not an *elector* in *England* would know or regard our sufferings—if acquainted with them, he might think the statutes inflicting them, JUST and POLITICAL. An open avowal has been made in parliament—that it is [u] "the *indispensible duty* of parliament, TO TAX THE COLONIES *in order to ease the gentry and people of Great-Britain.*" Let not *Americans* ever forget the *lordly* words! To understand them *fully* we should consider—

Our dispute includes not only the present taxes laid upon us. The universal property of *England* was interested in mr. *Hampden's* suit, about a few shillings. If the crown had a right to *those* shillings, it had a right to *every* shilling of *every* man in the kingdom. *Great-Britain* is about ONE HUNDRED AND FORTY MILLIONS OF POUNDS STERLING in debt. If she can pay

[s] Preambles to statutes for raising a revenue in *America*.
[t] *Philippians* iii 7.
[u] These words are extracted from the protest of the lords on the repeal of the *American* stamp-act—sec. 6.—61 *lords* were against the repeal, 33 of them signed the protest.

WE well know, that the colonists are charged by many persons in *Great-Britain*, with attempting to obtain such an exclusion and a total inde-

any part of that debt, by taxing us, she may pay *the whole* by taxing us, if we can raise the money. If we cannot, yet as we are upbraided continually in pamphlets and papers with the richness of our houses, our furniture, our equipage, our tables, and our dress, she may be made to think we abound too much in these *conveniencies*. If we are reduced to the condition of *French* peasants, it is no matter. We belong to the people of *Great-Britain*: and all *British* subjects but *Americans*, may do what they please with their own. "It is her indispensible DUTY," say their lordships, "to ease herself by taxing us;" and surely there is virtue enough left in a *British* parliament, notwithstanding all the dreadful intelligence *British* writers send us over, to perform *that* "duty," exactly. But this is not all. There are certain wicked *Frenchmen* and *Spaniards*, that in every period of twenty or thirty years oblige *Great-Britain* to add thirty or forty millions to her debt. Upon an average, since the revolution, she runs annually in debt about a million and an half. Can it be expected, her ministers will be kinder to us, than they have been to her? Where will the demand upon us, where will our wretchedness stop, if we have not resolution enough to defend ourselves?

A statute intended to have force on the people of *Great-Britain*, is the case of A STATE *acting upon* ITSELF. A statute intended to have force on the people of *America*, is the case of ONE *state acting upon* ANOTHER. The people of *Great-Britain*, who in the first case are *subject to* the statute—in the second, are the absolute sovereigns *who impose* it on others.

"Virtual representation" then, as applied to colonists—is, to borrow expressions of the excellent archbishop *Tillitson*, on another occasion, altering only two words—"an absurdity of that monstrous and massy weight, that no human authority or wit are able to support it. It will "make the very pillars of St." *Stephen's* "crack, and requires more volumes to make it good than would fill" *Westminster-Hall*.

pendence on her. As well we know the accusation to be utterly false. We are become criminal in the sight of such persons, by refusing to be guilty of the highest crime against ourselves and our posterity. *Nolumus leges Angliæ mutari.* This is the rebellion with which we are stigmatized.——[We have commited the like offence, that was objected by the polite aud humane *Fimbria*, against a *rude* senator of his time. We have "*disrespectfully* refused to receive the *whole* weapon into our body." We could not do it, *and live.* But *that* must be acknowledged to be a poor excuse, equally inconsistent with good breeding and the supreme legislature of *Great-Britain.*]

For these ten years past we have been incessantly * attacked. Hard is our fate, when, to escape the character of rebels, we must be degraded into

Yet this moſt despicable notion has been the *pretence, for our fellow subjects'* clapping muskets to our breaſts, and taking our money out of our pockets.

*4 Geo. 3, chap. 15. 4. Geo. 3, chap. 34. 5. Geo. 3, chap. 12. 5 Geo. 3, chap. 45. 6 Geo. 3, chap. 12. 6 Geo. 3, chap. 52. 7 Geo. 3, chap. 41.
+ 7 Geo. 3, chap. 46. 7 Geo. 3, chap. 59. 8 Geo 3, chap. 22. The resolves that colonists may be tried in *England* under the 35 Hen. 8.——The blockade of *Boston*——the *Rhode-Island* court, &c. &c.

v "*Win their hearts*, and you may soon have their *hands* and *purses*," was the advice of old lord *Burleigh* to queen *Elizabeth*. She was wise enough to take it. The world knows the consequences.

that of slaves: as if there was no medium, between the two extremes of anarchy and despotism, where innocence and freedom could find repose and safety.

Why should we be exhibited to mankind, as a people adjudged by parliament unworthy of freedom? The thought alone is insupportable. Even those unhappy persons, who have had the misfortune of being born under the yoke of bondage, imposed by the cruel laws, if they may be called laws, of the land, where they received their birth, no sooner breathe the air of *England*, though they touch her shore only by accident, * than they instantly become freemen. Strange contradiction. † The *same* kingdom at the *same* time, the *asylum* and the *bane* of liberty.

The statutes since the 8th year of this reign, relating to the colonies, follow one another much in the same quick manner as before: but they could not be collected. Many of the statutes here mentioned, particularly those relating to the admiralty courts and the commissioners of the customs, are connected with a multitude of other statutes, by being compared with which, the artifices will appear, that gradually departing from the laws of *England*, have at length invested these courts and commissioners with such new, unreasonable, unconstitutional and dangerous powers.

* *Somerset*'s case.

† To this contradiction, the following may be added—Her policy *at once* to keep peace with her *natural enemies*, and to provoke her *natural friends*, whose assistance one day——*and that day seems to be approaching*——in the vicissitudes of human affairs, great as she is, she may want;——her interests, as she thinks,

To return to the charge against us, we can safely appeal to that Being, from whom no thought can be concealed, that our warmest wish and utmost ambition is, that we and our posterity may ever remain subordinate to, and dependent upon our parent state.——This submission our reason approves, our affection dictates, our duty commands, and our interest inforces.

If this submission indeed implies a dissolution of our constitution, and a renunciation of our liberty, we should be unworthy of our relation to her, if we should not frankly declare, that we regard it with * horror; and every true *Englishman* will ap-

to *protect* and to *oppress* PROTESTANT countries——to abhor a *large standing army*, and yet voluntarily to put herself under the absolute necessity, of perpetuating an *immensely large one*, to govern the many millions of slaves she expects soon to have on this vast continent. Two of the shrewdest, though not best emperors, that ever lived, *Augustus* and *Tiberius*, prohibited every man of distinction from setting his foot in *Egypt*, [w] because of the importance of that province to *Rome*. But *Great-Britain*, as if these numerous provinces, much more remote from her, than *Egypt* from *Rome*, were of little consequence, willingly obliges herself to trust a mighty armed power into the hands of a subject, in these colonies, the tempting interest of which subject and of the people, may engage them to unite in establishing an independent empire, on her own model. *Great-Britain* ought not to forget, that *Rome* was ruined by keeping standing armies in her provinces.

* The *Privernates* had revolted from the *Romans*, but were reduced. The question was, what judgment should be given against them. This is *Livy's* account of the glorious affair, in the 21ft chapter of his 8th book.

[w] Tac.

plaud this just distinction and candid declaration. [Our defence necessarily touches chords in unison with the fibres of his honest heart. They must vibrate in sympathetic tones. If we, his kindred, should be base enough to promise the humiliating subjection, he could not believe us. We should suffer all the infamy of the engagement, without finding the benefit expected from being thought as contemptible as we should undertake to be.]

But this submission implies not such insupportable evils: and our amazement is inexpressible, when we consider the gradual increase of these colo-

" Quum ipsa per se res anceps esset, prout cujusque ingenium erat, atrociûs mitiûsve suadentibus; tum incertiora omnia unus ex Privernatibus legatis fecit, magis conditionis, in qua natus esset, quàm præsentis necessitatis, memor: qui, interrogatus à quodam tristioris sententiæ auctore, *quam pœnam meritos Privernates censeret? eam*, inquit, *quam merentur, qui se libertate dignos censent:* cujus quum feroci responso infestiores factos videret consul eos, qui antè Privernatium causam impugnabant; ut ipse benignâ interrogatione mitius responsum eliceret, *Quid, si pœnam*, inquit, *remittimus vobis, qualem nos pacem vobiscum habituros speremus? Si bonam dederitis*, inquit, *& fidum, & perpetuam: si malam, haud diuturnam.* Tum verò minari, nec id ambiguè Privernatem quidam, & illis vocibus ad rebellandum incitari pacatos populos, pars melior senatûs ad meliora responsum trahere, & dicere, *viri, & liberi, vocem auditam, an credi posse, ullum populum, aut hominem denique, in ea conditione, cujus eum pœniteat, diutiùs, quàm necesse sit, mansurum? Ibi pacem esse fidam, ubi voluntarii pacati sint: neque eo loco, ubi servitutem esse velint, fidem sperandam esse.* In hanc sententiam maximè consul ipse inclinavit animos, identidem ad principes sententiarum consulares, uti exaudiri posset à pluribus, dicendo, *Eos demum, qui nihil, præterquam de libertate, cogitent, dignos esse, qui Romani fiant.* Itaque & in senatu causam obtinuere, & ex auctoritate Patrum latum ad populum est, ut Privernatibus CIVITAS DARETUR."

nies, from their slender beginnings in the last century to their late flourishing condition, and how prodigiously, since their settlement, our parent state has advanced in wealth, force and influence, till she is become the first power on the sea, and the envy of the world—that these our better days should not strike conviction into every mind, that the freedom and happiness of the colonists are not inconsistent with her authority and prosperity.

THE experience of more than one hundred years will surely be deemed, by wise men, to have some weight in the scale of evidence to support our opinion. We might justly ask of her, why we are not permitted to go on, as we have been used to do since our existence, conferring mutual benefits, thereby strengthening each other, more and more discovering the reciprocal advantages of our connection, and daily cultivating affections, encouraged by those advantages?

[WHAT unknown offences have we committed against her within these ten years, to provoke such an unexampled change in her conduct towards us? In the last war, she acknowledged us repeatedly, to be faithful, dutiful, zealous and useful in her cause. Is it criminal in us, that our numbers, by the favour of Divine Providence, have greatly inincreased? That the poor choose to fly from their

native countries in *Europe* to this continent? Or, that we have so much improved these woods, that they are not only very valuable to us, but also highly beneficial to *Britain* herself?

It cannot with truth be urged, that projects of *innovation* have commenced with us. Facts and their dates prove the contrary.† Not a disturbance has happened on any part of this continent, but in consequence of some immediately preceding provocation.

To what purpose? The charge of our affecting one great, or many small republics, must appear as contemptible a madness to her, as it does to us. Divided as we are into many provinces,‡ and inca-

† "The winds lift up the waves,"——said a wise man——yet we read of a weak man, who scourged waves——but he had not raised them. *To excite* commotions, and then to scourge *for being excited*, is an addition to the wildness of a *Xerxes*, reserved more particularly to distinguish the present age, already sufficiently notorious by the injuries offered to the rights of human nature.

‡ The genius of a *Beccaria*, suggested to him the condition of a large empire verging into servitude——the only plan for saving it,——and the difficulty of executing that plan. "An overgrown republic (says he) can *only* be saved from despotism, *by subdividing it into a number of confederate republics*. But how is this practicable? By a despotic dictator, who with the courage of *Sylla*, has as much genius for building up, as that *Roman* had for pulling down. If he be an ambitious man, his reward, will be immortal glory; if a philosopher, the blessings of his fellow citizens will sufficiently console him for the loss of authority, though he should not be insensible to their ingratitude."

pable of union, except against a common danger, she knew, that we could not think of embarking our treasures of tranquility and liberty, on an ocean of

What was argument in *Italy*, is reality to *Great-Britain*, with this additional circumstance in her favour, that she must always continue, if she wisely conducts her affairs, though less than *all*, yet greater than *any*. The immense advantages of such a situation, are worthy the closest attention of every *Briton*. To a man, who has considered them with that attention, perhaps it will not appear too bold to aver, that, if an archangel had planned the connection between *Great-Britain* and her colonies, he could not have fixed it on a more lasting and beneficial foundation, unless he could have changed human nature. A mighty naval power at the head of the whole——that power, a parent state, with all the endearing sentiments attending the relationship——that never could disoblige, but with design——the dependent states much more apt to have feuds among themselves——she the umpire and controuler——those states producing every article necessary to her greatness——their interest, that she should continue free and flourishing—their ability to throw a considerable weight into the scale, should her government get UNDULY POISED——she and all those states PROTESTANT——are some of the circumstances, that delineated by the masterly hand of a *Beccaria*, would exhibit a plan, vindicating the ways of heaven, and *demonstrating that humanity and policy are nearly related*. An *Alexander*, a *Cæsar*, a *Charles*, a *Lewis*, and others, have fought through fields of blood, for universal empire. *Great-Britain* has a certainty, *by population and commerce alone*, of attaining to *the most* astonishing and well founded *power* the world ever saw. The circumstances of her situation are new and striking. *Heaven* has offered to her, *glory and prosperity without measure*. Her wise ministers disdain to accept them——and prefer——" *a pepper corn*." [y]

So directly opposite to the interest of *Great-Britain*, has the conduct of *administration* been for some time past, that it may safely be affirmed, that if their view was, to establish arbitrary power over *Great-Britain*, schemes more dangerous could not have been laid. To profess this purpose, would ensure a defeat. Any man, who had such a design, would first take the opportunity of peace, TO SET ONE PART OF THE SUBJECTS AGAINST THE OTHER.—— This might be done in the following manner.

y. Mr. *Nugent's* speech.

blood, in a wandering expedition to some *Utopian* port. The history of mankind, from the remotest antiquity furnishes not a single instance of a people

Let every session of parliament produce a fresh injury. Give no rest, or hope of rest. Let insult added to insult, fill up the vacancies between the sessions. *Tease and persecute into opposition.* Then let ministers themselves rejoice in the freedom of the press. Let every action of the oppressed be exaggerated. *Let innumerable false invectives be vented in pamphlets and news-papers.* Let all the *provocations and excuses be concealed* from public sight as much as possible. Load the devoted with the terms of *traitors and rebels.* Nearly in this way *Scotland* was treated by the arbitrary ministry of *Charles* the first. But the parliament and people of *England* had common sense and virtue. *The base deception could not pass upon them.* They saw the snare laid *for them;* and resented it so deeply, that an army of *Englishmen* fled before an army of *Scotchmen* at *Newburn.* For once it was glorious to fly. But it required *English* heads and *English* hearts to understand and to act the part.

Thus the colonies have been treated. At last a civil war may be worked up. It should be considered, as lord *Mansfield* expresses it—whether "the play is worth the candle." In such a war, every victory will be a defeat. If the colonies are subdued, vast sums must be raised, and a prodigious army must be supported, to keep them in subjection. *Great-Britain* must feel the weight of that influence, added to the power of the crown. The colonies are increasing. Who can compute the extent and effect of such an influence? [x] Undone by her

[x] "But, on the other hand, it is to be considered, that every prince, in the first parliament after his accession, has by long usage a truly royal addition to his hereditary revenue settled upon him for his life; and has never any occasion to apply to parliament for supplies, but upon some public necessity of the whole realm. This restores to him that constitutional independence which at his first accession seems, it must be owned, to be wanting. And then, with regard to power, we may find perhaps that the hands of government are at least sufficiently strengthened; and that an English monarch is now in no danger of being overborne by either the nobility or the people. The instruments of power are not perhaps so open and avowed as they formerly were, and therefore are the less liable to jealous and invidious reflections; but they are not the weaker upon that account. In short, our national debt and taxes (besides the inconveniencies before-mentioned) have also in their natural consequences thrown such a weight of power into the executive scale of government, as we cannot think was intended by our patriot ancestors; who gloriously struggled

consisting of husbandmen and merchants, voluntarily engaging in such a phrensy of ambition. No. Our highest pride and glory has been, with humble

victories, she *must* resign her LIBERTY to some future *monarch with her colonies*, unless she first loses them in another way. If she is unfortunate, public calamities may make great changes. Such changes seem to be intended by some men. *Great-Britain* has been led into the *rubicon*. She has not yet past it.—We consider the hostilities already practised, as the manœuvres of a ministerial war. We know the machinations formed against us, and the favourite publications industriously spread abroad, to excite a jealousy of us among our *British* brethren. We know how acceptable to many an earthquake would be to "sink some of the colonies in the ocean"—and how pleasing, to employ the rest "in raising *staple* commodities:" that we are thought "too numerous," and

for the abolition of the then formidable parts of the prerogative, and by an unaccountable want of foresight established this syſtem in their stead. *The entire collection and management of so vast a revenue, being placed in the hands of the crown*, have given rise to such a multitude of new officers, created by and removeable at the royal pleasure, that they have extended the influence of government to every corner of the nation. Witness the *commissioners*, and the *multitude of dependents on the customs*, in every port of the kingdom; the *commissioners of excise*, and their *numerous subalterns*, in every inland district: the *postmasters*, and their *servants*, planted in every town, and upon every public road; the *commissioners of the stamps*, and their *distributors*, which are full as scattered and full as numerous; the *officers of the salt duty*, which, though a species of excise, and conducted in the same manner, are yet made a distinct corps from the ordinary managers of that revenue; the *surveyors of houses and windows*; the *receivers of the land tax*; the *managers of lotteries*; and the *commissioners of hackney coaches*; all which are either mediately or immediately appointed by the crown, and removeable at pleasure without any reason assigned: these, it requires but little penetration to see, must give that power, on which they depend for subsistence, an influence most amazingly extensive. To this may be added the frequent opportunities of conferring particular obligations, by preference in *loans*, *subscriptions*, *tickets*, *remittances*, and *other money transactions*, which will greatly increase this influence; and that over those persons whose attachment, on account of their wealth, is frequently the most desirable. All this is the natural, though perhaps the unforeseen, consequences of erecting our funds of credit, and to support them, establishing our present perpetual taxes: the whole of which is intirely new since the restoration in 1660; and by far the greatest part since the revolution in 1688. And the same may be said with regard to

unsuspecting duty* to labour in contributing to elevate her to that exalted station, she holds among the nations of the earth, and which, we still ardently desire and pray, she may hold, with fresh accessions of fame and prosperity, till time shall be no more.

how much it would be judged by some for the interest of *Great-Britain*, if a pestilence should sweep off "a million and a half" of us. These wonderful lucubrations have not escaped us. But here we are, by Divine Providence, three millions of souls. What can be done with us? If we were to be considered,

the *officers* in our numerous army, and the places which the army has created. All which put together, gives the executive power so pursuasive an energy with respect to the persons themselves, and so prevailing an interest with their friends and families, as will amply make amends for the loss of external prerogative.

"But, though this profusion of offices should have no effect on individuals, there is still another newly acquired branch of power; and that is, not the influence only, but the *force of a disciplined army*: paid indeed ultimately by the people, but immediately by the crown; raised by the crown, officered by the crown, commanded by the crown. They are kept on foot it is true only from year to year, and that by the power of parliament; but during that year they must, by the nature of our constitution, if raised at all, be at the absolute disposal of the crown. And there need but few words to demonstrate how great a trust is thereby reposed in the prince by his people. A trust, that is more than equivalent to a thousand little troublesome prerogatives.

"Add to all this, that, besides the *civil list*, the *immense revenue* of almost seven millions sterling, which is annually paid to the creditors of the public, or carried to the sinking fund, is first deposited in the royal exchequer, and thence issued out to the respective offices of payment. This revenue the people can never refuse to raise, because it is made perpetual by act of parliament; which also, when well considered, will appear to to be a trust of great delicacy and high importance."

1 BLACKSTONE's COM. book 1. chap. 8. page 334—336.

* It has been suggested, "that subjects sometimes err, by not believing that princes mean as well as they do."—But the instances are numerous, where princes and their courtiers err, by not believing, that subjects mean as well as they do.

THESE being our sentiments, and, we are fully convinced, the sentiments of our brethren throughout the colonies, with unspeakable affliction, we

only as [z] PROTESTANT *allies*, we ought to be esteemed by a wise people.—— Such a people certainly would not be careful to disunite us from their interest—to make us foes when they might have us friends. Some states have thought it true policy to grant greater indulgences to remote dominions, than were enjoyed by themselves: and this policy has been much applauded. The enjoyment of valuable privileges by inferior states, under the protection of a superior, is a strong bond of dependence. Why should we prefer a dependence on *Great-Britain* to a dependence on *France*, if we enjoy less freedom under the former, than we may under the latter? "*Firmissimum imperium, quo obedientes* GAUDENT,'—or as lord chief justice *Coke* expresses it, in his comment on the 25th of *Edward* the third," the state of a king standeth more assured by the love and favour of the subject, than by the dread and fear of laws, &c."[a] Ought

[z] *Great-Britain* put herself to a very considerable expence last war in defence of *Portugal*, because that kingdom was her ally, and she derived great advantages from an intercourse with her. But what are those advantages or the affections arising from them, when compared to the advantages and affections that connect these colonies with *Great-Britain*? Words cannot express the surprize, that men free from passion must feel, on considering her impolicy, in labouring to disjoin from herself the only true friends she has in the world. If her ministers were pensioners of *France* and *Spain*, they could not pursue measures more pleasing and advantageous to those kingdoms.

[a] "During all our happy days of concord, partly from our national moderation, and partly from the wisdom, and sometimes perhaps from the carelessness of our ministers, they have been trusted in a good measure with the entire management of their affairs; and the success they have met with ought to be to us an ever memorable proof, that *the true art of government consists in not governing too much*. And why should friendship and gratitude, and long attachments, which inspire all the relish and sweetness of private life, be supposed to be of no weight in the intercourse between great communities? These are principles of human nature, which act with much greater certainty on numbers than on individuals. If properly cultivated they may to us be productive of the noblest benefits; and, at all events, will neither lessen the extent of our power, nor shorten the duration of it."

Bishop of St. ASAPH's Sermon, page 13.

If rulers would but listen to the voice of reason and experience, they would learn this important truth, that men are more easily and effectually governed by mildness than by severity.

find ourselves obliged to oppose that system of dominion over us, arising from counsels pernicious both to our parent and her children——to strive if it be possible, to close the breaches made in our former concord—and stop the sources of future animosities.—And may GOD Almighty, who delights in the titles of *just* and *merciful*, incline the hearts of all parties to that equitable and benevolent temper, which is necessary, solidly to establish peace and harmony, in the place of confusion and dissension.

THE legislative authority claimed by parliament over these colonies consists of two heads—first, a general power of internal legislation; and secondly, a power of regulating our trade; both, she contends are unlimited. Under the first, may be includ-

Great-Britain to despise the advantages she *actually receives with safety* from us, because by the adoption of *Spanish* maxims, she *might with danger extort more?*

It is the duty of every colonist to oppose such maxims. They threaten ruin to our mother country and to us. We should be guilty of treason against our sovereign and the majesty of the people of *England*, if we did not oppose them. *England* must be saved in *America*. Hereafter, she will *rejoice* that we have *resisted*—and *thank* us for having *offended* her. Her wisdom will in a short time discover, the artifices that have been used by her worst enemies to enflame her against her dutiful children; that she has supported not her own cause, but the cause of an administration; and will clearly distinguish, which will most conduce to her benefit, safety, and glory, *well treated* and *affectionate colonies*, or *millions of slaves*, an *unnatural increase of her standing forces*, and an *addition to the influence of the crown, defying all calculation.*

ed among other powers, those of forbidding us to †worship our Creator in the manner we think most acceptable to him——imposing taxes on us——collecting them by their own officers——inforcing the collection by admiralty courts or courts martial ——abolishing trials by jury——establishing a standing army‡ among us in time of peace, with-

† See *Canada* bill.

‡ The army under the command of general GAGE, in the province of *Massachusetts-Bay* alone, amounts to several thousand men——kept there *without consent of their assembly*, and to be *augmented* as the *general* shall think proper.

" I must own, sir, I can see but one reason for raising at this present juncture, this additional number of troops, and that is to strengthen the hands of the minister against the next elections, by giving him the power of disposing of *commissions* to the *sons*, brothers, nephews, cousins, and friends of such as have interest in boroughs into some of which perhaps, troops may be sent to procure the free election of their members, in imitation of the late Czarina sending her troops into *Poland* to secure the free election of a king.

" But still there is one thing more fatal than all I have yet named, that *must be* the consequence of so great a body of troops being kept on foot in *England*, and *will be the finishing stroke to all our liberties*. For as the towns in *England* will not be able much longer to contain quarters for them, most of those who keep public houses being near ruined by soldier's billeted on them; so *on pretence of the necessity of it*, barracks will be built for quartering them, which will be as so many fortresses *with strong garrisons in them*, erected in all parts of *England*, *which can tend to nothing*, but by degrees to subdue and enslave the kingdom.

" But if ever this scheme should be attempted, it will be incumbent on every *Englishman* to endeavour to prevent it by *all* methods, and as it would be *the last stand* that could be ever made for our liberties, rather than suffer it to be put in execution, IT WOULD BE OUR DUTY TO DRAW OUR SWORDS, AND NEVER PUT THEM UP, till *our liberties were secured*, and the *authors of our intend-*

out consent of our assemblies———paying them

ed slavery brought to condign punishment.——I hope I shall be forgiven, if during the debates I shall take the liberty of speaking again; for *I am determined to fight inch by inch*, every proposition that tends, as I think this does, to the enslaving my country."

Lord Viscount GAGE's Speech in 1739. Parl. Deb. book 11th, pag. 388. See *Montesq.* on standing armies.

A minister declared in the house of commons, that he should "always consider it as a part of the constitution, that the military should act under the civil authority." But, by order, the commander in chief of the forces has precedence of a governor, in the province under his government. By his majesty's *order*, transmitted in a letter dated the 9th of February, 1765, from the secretary of state to the commander in chief, it is declared, "that the orders of the commander in chief, and under him, of the brigadiers-general, commanding in the northern and southern departments, *in all military affairs, shall be* SUPREME, and must be obeyed by the troops, as such, *in all the civil governments* in *America*. That in cases, *where no specific orders* have been given by the commander in chief, or by the brigadier-general commanding in the district, the civil governor in council, and where no council there subsists, the civil governor, *may, for the benefit of his government*, give orders for the marching of troops, the disposition of them, for making and marching detachments, escorts, and such purely military services within his government, *to the commanding officer* of the troops, *who is to give* proper order *for carrying the same into execution:* PROVIDED they are not *contradictory to*, or *incompatible with*, any order he may have received from the commander in chief, or the brigadier-general *of the district.*"

In May, 1769, the house of representatives for *Massachusetts-Bay*, requested governor *Bernard* "to give the necessary and effectual orders for the removal of the *forces by sea and land* out of the *port* of *Boston*, and from the *gate* of the city, *during the session of the said assembly*;" to which he answered——"gentlemen, I have *no authority* over his majesty's *ships in this port*, or his *troops within this town, nor can I give* any orders for their removal.

May 31, 1769. *Fra. Bernard.*"

with our money——seizing our young men* for recruits—changing constitutions of government†—

Thus, our governors, the captains-general and commanders in chief, representing the sovereign, and known to the constitution of these colonies, are deprived of their legal authority, *in time of peace, by an order*—and a *perpetual dictatorial power* established over us. To accomplish this great purpose, it was thought proper during the last war, to change the mode of granting military commissions, and to pass that to the general in *America under the great seal.* It is not known, whether this uncommon formality has been observed with regard to the *major-generals of the respective* "DISTRICTS."

* The *Germans* have been justly celebrated in different ages, for sagacity in promoting the arts, and for martial spirit; yet how unhappy have they been made in a short period of time, by that single engine of arbitrary power, a *standing army*. Their distress was wrought up to such a degree, that thousands, and tens of thousands, relinquished their native country, and fled to the wildernesses of *America*.——It was a way of thinking and acting that became them. For *Germans* may truly be called *the fathers of Englishmen*. From [b] *Germany* came their ancestors, and the first principles of the constitution. *Germans* therefore seem to be more justly intitled than other foreigners to the blessings of that constitution. To enjoy them, in this free country as it then was, they came here, but now unfortunately find, *arbitrary government* and *a standing army* pursuing them even into these woods. Numbers of them now in these provinces, have served in the armies of the several princes in *Germany*, and know well, that one reason with their rulers, for putting swords into their hands was to cut the throats of their own fathers, brothers, and relations who should attempt to relieve themselves from any part of their miseries. Their former sovereigns are now completing, it is said, the cruel tragedy of tyranny. They will not suffer those they have made wretched, to seek for a more tolerable existence in some other part of the globe. It is their DUTY, say these unfeeling princes, "to be unhappy, and to renounce all hopes of relief." They are prohibited from leaving their country. Those who have already escaped

† Bill for changing the constitution of *Massachusetts-Bay*.

[b] 1 BLACKSTONE, page. 147.

stopping the press——declaring any action, even a meeting of the smallest number, to consider of peaceable modes to obtain redress of grievances * high treason——taking colonists to *Great-Britain* to be tried †—exempting "murderers" ‡ of colonists from punishment, by carrying them to *England*, to answer indictments found in the colonies ——§ shutting up our ports——prohibiting us from slitting¶ iron to build our houses,——making ‖ hats to cover our heads, or clothing to cover the rest of our bodies, &c. ††

into these colonies, remember what they and their parents suffered in *Germany*. The old tell the stories of their oppressions to the younger; and however *improbable* it may appear on the other side of the *Atlantic*, it is asserted by persons well acquainted with this people, that they have *very little* inclination TO SUFFER THE SAME CRUELTIES AGAIN in *America*.

* General *Gage's* proclamation, dated June 29, 1774.

† Resolves in the house of lords on 35th Hen. 8. chap. 2d.

‡ Bill for the administration of justice, &c.

§ *Boston* act.

¶ 23d Geo. 2 chap. 29.

‖ 5th Geo. 2. chap. 22.

†† If *Great-Britain* has a constitutional power to prohibit us from slitting iron *as she has done*, she has a constitutional power, that is, a *right*, to prohibit us from raising grain for our food; for the principle that supports one law, will support the other. What a vast demand must be made on her for this article, and how firmly would her dominion be established, if we *depended* wholly on her for our daily bread? Her modern writers consider colonists as slaves of

IN our provincial legislatures, the best judges in all cases what suits us——founded on the im-

Great-Britain shut up in a large workhouse, constantly kept at labour, in procuring such materials as she prescribes, and wearing such clothes as she sends.—Should she ever adopt the measure abovementioned, and on our complaints of grievances, withhold food from us—what then? why then, on her principle—it would be our *right*—— TO BE STARVED. To say in such *case* we should have any other *right*, would be a "*traiterous* and *rebellious* denial of the supreme legislature of *Great-Britain*," for she "has power *of right* to bind us by statutes *in all cases whatsoever*."

Let not any person object that the supposition of such a case is the suggestion of fancy. The *Carthaginians*, those masters in *the sublime politics of commerce*—politics that have produced so many dreadful scenes upon earth, forbad the *Sardinians* to raise corn, in order to keep them in due subjection. The *East-Indies*, *St. Vincents*, the proceedings at *Rhode-Island*, and the *Boston* act, &c. give rise to many alarming apprehensions in *America*. There are few men on this continent would be as much surprized at that measure, as at some late measures. The beginning justifies any apprehensions. Power debauches the affections The improbability of cases happening, is no answer in such important considerations. The laudable spirit of commerce may be inflamed into rapacity and cruelty in a nation as well as in an individual.——We must regard the POWER claimed by *Great-Britain*, not solely her *will* or *contingencies depending on that will*. If she affixes no limits to her *power*, why should we affix *any* to its *effects*? "I know (says mr. *Hoadly*) it is next to impossible, that any such case should happen: but if such things be said, and such cases, *in effect*, be put, it is necessary to speak, *upon the supposition of such cases*.—And methinks it is but a narrow spirited proceeding in us to go just no farther *in our notions*, than a compliance with *our own present condition forceth us*; to exclude from our regard the condition of *all other nations*, *and all cases*, but just that, which hath happened last of all in our own."

That the plan of governing us, by withholding *necessaries of life*, has been considered, and in what light colonies are viewed at home, the following extracts will partly shew.

mutable and unalienable rights of human nature, the principles of the constitution, and charters and

" It appears that the original and grand evil attending them was, the settlement of *so considerable a part* in a climate incapable of yielding the commodities wanting in *Britain*.

" These northern colonies, long after *their disadvantageous nature* was known, were continually increased by fresh migrations from *Europe;* which, as I before observed, ought totally to have been prevented, and such migrations have been encouraged only to the beneficial colonies.

" Since the late war, *Britain* laid the trade of the colonies under some very strict regulations, which certainly cut off many inlets by which they formerly received much *Spanish* and *Portuguese* coin. The *principle* upon which such regulations were formed, of securing to the mother country alone *all matters of commerce*, I have already attempted to prove *just* and *necessary*.

" When once their supernumeraries are become manufacturers, it will require more than *British* policy to convert them into planters.

" I must think this point of such great importance, as to extend probably to the *annihilation of manufactures* in our colonies——To conclude, it is in the proposed settlement on the *Obio* we must *first* look for hemp and flax; as such great numbers of the old *American* farmers have removed and settled there, which may, in those fertile tracts, be cultivated in such abundance, as to enable us to undersel all the world, as well as supply our own consumption. It is on those high, dry, and healthy lands that vineyards will be cultivated to the best advantage, as many of those hills contain quarries of stone, and not in the unhealthy sea-coasts of our *present* colonies. To these we should bring the settlers from *Europe*, or at least suffer none to go *north* of *New-York;* by which means our numbers would increase in those parts, where it is our interest they should increase; and the report of the settlers from the new colony on the *Obio*, would be a constant drain of people from our *unprofitable* northern ones, by which means they would, in future times, as well as the present, be prevented from extending their manufactures.

" What I shall therefore venture to propose, is, that the government, *through the means of a few merchants* acquainted with the *American* trade, that can be

grants made by the crown at periods, when the power of making them was universally acknow-

tolerably depended upon, should establish *factors at Boston, Philadelphia, New-York*, and a few other ports, for the sale of such cargoes of *British* manufactures as should be consigned to them; and to consist of *such particularly as were most manufactured in the province*, with directions immediately and continually to *undersel* all such colony manufactures. By this means the operation of the *succeeding measures*, from the number of hands rendered idle, would be so much the easier to be executed.

" The ships which carried out such cargoes should be large bulky ones, of eight, nine hundred, and one thousand tons burden, for the sake of bringing large quantities of deals, &c. back, at a lefs proportionate expence; and previous to their arrival in *America*, cargoes of these should be ready for them. The colonists should be engaged to work their iron mines, and get the product ready in bars, &c. and vast quantities of deals and squared timber ready for loading the ships: all which, on the certain and immediate prospect of a sale, would easily be effected; as it is well known they have more than once proved to the legislature, that they could supply all *Europe* with these articles, had they but the *demand*.

" But I laid it down as a rule to proceed upon, that *trade, fishing*, and *manufacturing*, were put an *entire stop to* among the colonies.

" If the sugar islands contained ten millions of people, *as destitute of necessaries* as they are at present, *Britain* would be as *sure* of their allegiance as she is at present—provided no power more formidable than herself at sea arose for their protection.

" The first dependence of our colonies, as well as all their people, is, to change the terms a little, upon corn worked into bread, and iron wrought into implements; or, in other words, it is upon *necessary* agriculture and *necessary* manufactures; for a people who do not possess these, to think of throwing off the yoke of another *who supplies them with them*, is an absurd idea. This is *precisely the case* with our sugar islands. Let us suppose the continental colonies to be as happy in the *necessary agriculture* as they really are, but to be *absolutely without manufactures*, could they throw off their allegiance to *Britain*, be

ledged by the parent state, a power since frequently recognized by her,——subject to the controul of

their numbers what they would? No, certainly; for that is nothing more than supposing they should throw off their allegiance to hoes and spades, and *coats* and *shoes*, which is absurd to imagine: can any one imagine that a rebellion can be carried on among a people, when the greatest success must be attended with the loss of *half* the *necessaries* of life!

"The following, among other effects relative to this point, would be the consequences of the *plan* sketched out in the preceding section.

"The people would depend on *Britain* for those *necessaries of life* which result from manufactures.

"The cultivation of *staples* would be more profitable to them than any other employment whatever.

"The *sale* of those staples would depend on *Britain*.

"The people would all be *spread* over an immense country as planters;—none of them collected in towns. [c]

"To which circumstances I shall add, in respect to *Britain's* further policy.

"That she should abide by the boundaries fixed already to the old colonies, that of the rivers heads; and all further settling to be in *new colonies*, wherever they were traced.

"That she should keep the inland navigation of the continent, that is, of all the great lakes and navigable rivers, to herself, and not suffer any *sets* of men

[c] "This point, which is of infinite importance, would pretty fully be occasioned by other parts of the plan. But, to ensure so great a point, no new towns should be suffered, nor even villages; than which nothing could be easier to manage: nor would they be any where necessary, but by the magazines of naval stores for loading ships. All possible decrease of numbers in the cities already in being, should be effected.——So systematically absurd is it to found towns and cities, as *Britain* has hitherto constantly done, in all the colonies she has formed."

the crown, as by law established, is vested the *exclusive right of internal legislation.*

to navigate them, and thereby communicate from one part of the continent to another.

" That she should never suffer any *provincial troops* or *militia* to be raised, but reserve entirely to herself the defence of the frontiers. [d]

" That she should throw whatever obstacles she could, upon all plans of *communication* from colony to colony, or conveniencies of speedy removals from place to place.[e]

" That in proportion as any colony declined in staples, and threatened not to be able to produce a sufficiency of them, the inhabitants should receive such encouragement to leave it, as *more* than to drain its natural increase, unless new staples were discovered for it.

" This is *now* the case with those I have distinguished by the title of the northern colonies; insomuch that *Nova-Scotia*, *Canada*, *New-England*, *New-York*, *New-Jersey*, and *Pennsylvania*, would be nearly of as much benefit to this country BURIED IN THE OCEAN, as they are at present."

Political Essays, published in *London*, under ministerial patronage.

The conduct of administration corresponds exactly with the sentiments of this modern writer, and with the measures pursued by *Philip* the second of *Spain* against the *Low Countries*. The reasons given by one in administration for attacking the colonies, seem to be copied with some small alterations on account of religion from the famous advice of the unfeeling duke of *Alva*, that " specie retinendæ dignitatis," cost his master, his glory, his happiness, and his provinces—and sunk his country into distresses, from which she is not yet re-

[d] " Specie tuendi finium, jugum liberis provinciis meditatur."
STRADA, *lib.* 2.

[e] Thus *Rome* divided *Macedon* into several departments, and forbade their intercourse with one another; that is, not only with their own countrymen, but even with their relations and friends, residing in a different department.

SUCH a right vested in parliament, would place us exactly in the same situation, the people of *Great-*

covered. " At vero dux Albanus ARMA & ULTIONEM, contendebat, *unicum* læsæ auctoritati principis remedium. Quippe ceteris artibus ac diuturna facilitate nihil aliud effectum, quam ut regi obedientia, rebellibus timor adimeretur. Postulasse *principio* Belgas, ut Hispanus è provincia miles excèderet : id scilicet unum deesse constantes ad quietem populorum. Num propterea, *impetrata externorum missione* quievisse ? An potius & confidentius efflagitasse, ut — clavo deturbaretur GRANVELLANUS. At *unius* forte *naufragio* complacatos fuisse ventos.—Quin immout *licentia* crescit facilius—hominés à nostra facilitate securi—*libellis deridiculis*, *flagigiosis conspirationibus*—improbis palam carminibus—minis—*precibus armatis*—extorcerent quod averent—obstinatis *inverecunde* legationibus Hispaniàm FATIGARENT—Hic quoque visum clementiæ principis aliqua indigna poscentibus indulgere. Enim vero quid ex illa indulgentia relatum, nisi ut votorum ubique compotes, non parendo ; subditos sese oblivisceretur, obsequium dediscerent, atque exuta principis reverentia, communicata provinciarum defectione, tanquam culpæ societate tutiores, humana omnia contrectatæ semel libertati post haberent. Nunc vero non *unius civitatis*, sed *provinciarum consensu* peccatum esse in regem. Nec quia rebelles in presentia conquiescant, minus ferociæ animis inesse, resumpturos utique vires, ubi *metum ultionis* abjecerint. Sic *ille* PRONUS AD ASPERIORA, disserebat."

STRADA de bello *Belgico*, lib. 6.

It is evident that the *British* ministers have diligently studied *Strada* and the other authors who have transmitted to posterity the pleasing and instructive annals of *Philippic* policy, as every measure they have taken, is founded on a precedent set by that celebrated school of humanity.

Alva is the favourite master—on his conduct they keep their eyes steadily and reverently fixed, and it may truly be said—they follow him with no unequal steps. Great, good, and wise men ! whom some future *Puffendorf* or *Temple* will duly celebrate.

" In 1564, GRANVILLE was removed from the council, to appease the people. Their joy was short lived ; for as the *same* measures were pursued, it soon began to be said publicly, that though his *body* was removed from, *his spirit*

Britain would have been reduced to, had *James* the first and his family succeeded in their scheme

still influenced the council. Upon application for a relaxation of the edicts, it was said, that *moderation had only made matters worse*, and the observation of them was again enjoined upon *more severe penalties* than before.

" At length an ASSOCIATION was entered into, for mutually defending each other. This being signed by above 400 persons of quality, who all protested, that they meant nothing but the honor of God, the glory of the king, and the good of their country, they met and PETITIONED, that the *proclamation might be revoked*: but the king would consent to no mitigation. Good advice was given to him. But the duke *D'Alva's* violent counsel, *who proposed the entire abolishment of the liberties of the provinces*[f] was most pleasing, and followed. The cruel duke was sent into the *Low Countries* with a powerful army. The counts *D'Egmont* and *Horn*, were immediately seized, on a pretence that they had underhand, spirited up the people's *disaffection*. They were afterwards executed. All who had signed the *association* or *petition* were declared guilty of [g] HIGH TREASON, and answerable for what had happened. A council, called from its cruel proceedings, [h] THE COUNCIL OF BLOOD, was erected for trying the accused, *from which there was no appeal*. (NOTE WELL) *Alva* himself tried the accused *in their own country*, where their *friends* and *witnesses* might attend them,——where the pains of death itself might be mitigated, by seeing with their dying eyes, that they expired beloved and lamented. Here the disciples exceed their tutor. This is too great a consolation to be indulged to a colonist. He must be carried 3000 miles across the ocean——that he may not only die, but be insulted in his last moments, with the mockery of a trial, where the clearest innocence stands no chance of acquital, and with the formality of a sentence founded on a statute past before the colonies existed. On the approach of the army, the prince of *Orange* and other lords fled; and being summoned to appear before the council, in default thereof were condemned,

[f] " LAY THEM AT MY FEET." Lord *North's* speech.

[g] See. Gen. *Gage's* proclamation.

[h] Resolutions in parliament for trying colonists in *England*. *Rhode Island* Court. Late acts for *Massachusetts-Bay*.

of arbitrary power. Changing the word *Stuarts* for *parliament*, and *Britons* for *Americans*, the

and their estates confiscated. *Alva* treated all, the *innocent* and *guilty* with such rigor, that it gave rise to the following saying of a *Spanish* officer—" *Hæretici* fraxerunt templa; *boni* nihil faxerunt contra: ERGO *omnes* debent *patibulari*."

Puffendorf's introduction——Art. " Spain" and " the United Provinces."

Sir *William Temple*'s account of the disturbances in the *Low Countries* agrees exactly with the foregoing extracted out of *Puffendorf*, by which it will appear with what a surprizing exactness of resemblance the affairs of the colonies have been carried on by administration.

" The war with *France* being concluded, it was resolved to keep up the troops in these provinces, and that the states should support them, which by a long course of war was grown customary." When *Philip* would have put *Spanish* garrisons into some of their towns; and for the sake of their admitting them quietly, gave the command to the Prince of *Orange* and Count *Egmont*: they told him plainly, " that all the brave stands they had made against the power of *France*, availed them but little, if they must at last be enslaved by another foreign power." *Puff.* " The hatred of the people, the insolence of the troops, with the charge of their support, made them looked upon by the inhabitants in general, as the *instruments of their oppression and slavery, and not of their defence, when a general peace had left them no enemies*: and therefore the states began here their complaints, with a general consent and passion of all the nobles, as well as towns and country. And upon the delays that were contrived or fell in, the states first refused to raise any more monies either for the *Spaniards* pay, or their own standing troops: and the people ran into so great *despair*, that in *Zealand* they absolutely gave over the working at their dykes, *suffering the sea to gain every tide upon the country*, and resolving, as they said, rather to be devoured by that element, than by the *Spanish* soldiers; so that at last the king consented to their removal. Another grievance was the appointment of *new judges*, [1] and those absolutely depending on the king, &c."

[1] Admiralty courts. *Rhode-Island*, court for enforcing the statute of 35 Hen. 8. Act for regulating the government of *Massachusetts-Bay*. Act for administration of justice, &c.

arguments of the illustrious patriots of those times, to whose virtues their descendents owe every bless-

" GRANVILLE, strained up to the highest his master's authority and the execution of his commands, while the provinces were resolute to protect the liberties of their country, against the admission of this *new and arbitrary judicature, unknown to all ancient laws and customs of their country.* The king at last consented to GRANVILLE's recess. Then all noise of *discontent* and *tumult* was *appeased.* But quickly after the *same counsels* were resumed. The *disturbances* then grew *greater than before.* But by the prudence and moderation of the dutchess of *Parma*, the governess, the whole estate of the provinces was restored to its former peace. This dutchess, and the duke of *Feria*, one of the chief ministers in *Spain*, thought and advised, that the THEN PRESENT PEACE OF THE PROVINCES OUGHT NOT TO BE INVADED BY NEW OCCASIONS, nor the royal authority lessened, by the king being made a party in a war upon his subjects.—But the king was immoveable; he dispatched *Alva* into the low country at the head of *ten thousand* veteran *Spanish* and *Italian* troops, under the command of the *best officers*, which the wars of *Charles* the fifth, or *Philip* the second had bred up in *Europe*; which, with *two thousand* more in the provinces, under the command of so old and renowned a general as the duke of *Alva*, made up a force, which nothing in the *low countries* could look in the face with other eyes, than of astonishment, submission or despair. This power was for the *assistance of the governess*, the *execution of the laws*, the *suppressing* and *punishing* all who had been *authors* or *fomentors* of the *late disturbances.* [k] On his arrival the governess having obtained leave of the king, retired out of the province. The duke of *Alva* was invested in the government, *with powers never before given to any governor.* A council, called *the council of blood*, [l] was erected for the trial of all crimes committed *against the king's authority.* The towns stomached the *breach of their charters*, the people *of their liberties*, the knights of the golden fleece the *charter of their order*, by these *new and odious courts of judicature;* all complain of the *abuse of the states*, [m] of the *introduction of armies*, but all in vain. The king

[k] See speeches in parliament, and preambles to the late acts.

[l] See note in page 367.

[m] Frequent dissolutions of assemblies—and their total uselessness, if parliament taxes us.

ing they now enjoy, apply with inexpressible force and appositeness, in maintenance of our cause, and

was constant to what he had determined. *Alva* was in his nature *cruel* and *inexorable*. The new army was fierce and brave, and desirous of nothing so much as a rebellion in the country. The people were enraged, but awed and unheaded. All was *seizure* and *process*;——*confiscation* and *imprisonment*;——*blood* and *horror*;——*insolence* and *dejection*;——*punishments* executed, and meditated *revenge*. The smaller branches were lopt off a pace; the great ones were longer a hewing down. Counts *Egmont* and *Horn* lasted several months; but at length, in spite of all their services to *Charles* the fifth, and to *Philip*, as well as of their new merits in quieting of the provinces, and of so great supplications and intercessions as were made in their favour, both in *Spain* and *Flanders*, they were publicly beheaded at *Brussels*, which seemed to break all patience in the people; and by their end to give those commotions a beginning, which cost *Europe* so much blood, and *Spain* a great part of the low country provinces. The war begun, *Alva* had *at first* great success. Moved with no rumors, terrified with no threats from *a broken* and *unarmed* people, and thinking no *measures* or *forms* were any more necessary to be observed in the provinces; he pretends *greater sums* are necessary for the *pay* and *reward* of his *victorious* troops then were *annually granted upon the king's request by the states of the provinces: (Note,* Here our ministers have again improved upon *Philip*'s; for they have taxed us, without making requests.) [n] And therefore demands a general tax of the hundredth part of every man's estate, to be raised *at once:* and *for the future*, the twentieth of all immovable, and the eighteenth of all that was sold. The states with much reluctancy consent to the first, as a thing that ended at once. They *petition* the king, *but without redress;* draw out the year in contests, sometimes stomachful, sometimes humble with the governor: till the duke, impatient of delay, causes the *edict*, *without consent*

[n] Another advantage the *British* ministers have over the *Spanish* in depth of policy, is very remarkable. *Spain* was a great empire. The Low Countries a mere speck, compared with it. *Spain* was not a maritime state that depended upon them for the supply of her revenue. Had they been sunk in the sea, she would scarcely have felt the loss. Her prospect of success was almost certain. *France*, her then inveterate enemy, exhausted by a civil war, and divided into two powerful parties. Every circumstance is directly the reverse to *Great-Britain* in her present contest with the colonies. "Siquidem verissimum est, *omne* tectis injicere, et injecto spatium modumque. Statuere, non esse in ejusdem manu.' STRADA, *lib.* 7.

in refutation of the pretensions set up by their too forgetful posterity, over their unhappy colonists.—Confiding in the undeniable truth of this single po-

of the states, to be *published*. The people *refused to pay*; the *soldiers* begin to *levy by force*; the *townsmen all shut up their shops*; the *people in the country forbear the market*; so as not so much as *bread* and *meat* is to be bought in the town. The duke is *enraged*; calls the *soldiers to arms*; and commands several of the inhabitants *who refused the payments*, to be hanged that very night *upon their sign posts*; which moves not the obstinacy of the people. *And now the officers and the guards are ready to begin the executions*, when news comes to town of the taking of the *Briel*, by the *Gueses*, [o] and of the expectation that had given of a sudden revolt in the province of *Holland*.

"This unexpected blow *struck* the duke of *Alva*, and *foreseeing the consequences* of it, because he knew the stubble was dry, and now he found the fire was fallen in, he thought it an ill time to make an end of the tragedy in *Brabant*, whilst a new scene was opened in *Holland*; and so giving over for the present his *taxes* and *executions*, applies his thoughts to the suppression of this new enemy that broke in upon him from the sea. And *now* began that great commotion in the *Low Countries*, which *never ended* but in the loss of those provinces, when the death of the royal government gave life to a new commonwealth."

Observations upon the UNITED PROVINCES of the *Netherlands* by sir *William Temple*.

Philip and his junto of cabinet ministers thought themselves no doubt very wise, and politic as so many *Machiavels*. But what says, and will say mankind as long as the memory of those events is preserved? That their counsels were despicable, their motives detestable, and their minds like those described by the bishop of *Lerida*, that exactly resembled the horns of the cows in his country—*little*, "*hard* and *crooked*."

[o] *Beggars*—they were called so in contempt, when they *petitioned*. The people thereupon assumed that name, perhaps to keep up the memory of an insult *occasioned by their loyalty*.

sition, that, " to live by one man's † will, became the cause of all men's misery," they generously suffered.——And the worthy bishop before men-

† *Hooker.* " For a man to be *tenant at will* of his liberty, I can never agree to it. It is a *tenure*, not to be found in all *Littleton.*"

Speech of sir *Edward Coke.*

" *Etiam si dominus non sit molestus, tamen miserrimum est*, posse *si* velit."

CICERO.

——————" The *free*,
Know no *gentle* tyranny." ROWE.

The whole country of the seven *United Provinces* is not as large as one half of *Pennsylvania:* and when they began their contest with *Philip* the second for their liberty, contained about as many inhabitants as are now in the province of *Massachusetts-Bay*. *Philip's* empire then comprehended in *Europe*, all *Spain* and *Portugal*, the two *Sicilies*, and such provinces of the *Low Countries* as adhered to him—many islands of importance in the *Mediterranean*—the *Milanese* and many other very valuable territories in *Italy* and elsewhere. In *Africa* and *Asia*, all the dominions belonging to *Spain* and *Portugal*—in *America* the immense countries subject to those two kingdoms, with all their treasures and yet unexhausted mines, and the *Spanish West-Indies*. His armies were numerous and veteran, excellently officered, and commanded by the most renowned generals. So great was their force, that during the wars in the *Low Countries*, his commander in chief the prince of *Parma*, marched twice into *France*, and obliged that great general and glorious king *Henry* the fourth, to raise at one time the siege of *Paris*, and at another, that of *Roan*. So considerable was the naval power of *Philip*, that in the midst of the same wars, he fitted out his dreadful *armada* to invade *England*. Yet seven little provinces, or *counties*, as we should call them, inspired by one generous resolution——" to die free, rather than to live slaves," not only baffled, but brought down into the dust, that enormous power, that had contended for universal empire, and for half a century, was the terror of the world. Such an amazing change indeed took place, that those provinces afterwards actually *protected Spain* against the power of *France*.

tioned, who, for strenuously asserting the principles of the revolution, received the unusual honour of being recommended by a HOUSE OF COMMONS to the sovereign for preferment, has justly observed, that *misery* is the *same*, whether it comes from the hands of MANY or of ONE.

" IT could not appear *tolerable* to him (meaning mr. *Hooker*, author of the ecclesiastical policy) to lodge in the governors of *any society* an *unlimited authority*, to annul and alter the constitution of the government, as they should see fit, and to leave to the *governed*, the privilege *only* of ABSOLUTE SUBJECTION in *all such alterations;* * or to use the parliamentary phrase, " *in all cases whatsoever.*"

FROM what source can *Great-Britain* derive a single reason to support her claim to such an enormous power? That it is consistent with the laws of *nature*, no reasonable man will pretend. That it contradicts the precepts of *christianity*, is evident. For she strives to force upon us, terms which she would judge to be intolerably severe and cruel, if imposed on herself. " *Virtual representation*," is too ridiculous to be regarded. *The necessity of a supreme sovereign legislature* internally superintending the whole empire, is a notion equally unjust

* HOADLEY's disc. on government.

and dangerous. " The *pretence* (says mr. justice *Blackstone*, speaking of *James* the first's reign) for which *arbitrary* measures, was no other than the TYRANTS PLEA of the NECESSITY OF UNLIMITED POWERS, in works of *evident utility* to the† public, the supreme reason above all reasons, which is the salvation of the king's lands and people." This was not the doctrine of *James* only. His son unhappily inherited it from him. On this flimsey foundation was built the claim of *ship-money*, &c. Nor were there wanting men, who could argue, from the courtly text, that parliaments were too stupid or

† With such smooth words may the most dreadful designs be glossed over. " There are some men who call evil, good, and bitter, sweet.——*Justice*, is now called *popularity* and *faction*." Parl. hist. 8. 193.

" A man shall not unprofitably spend his contemplation, that upon this occasion considers the method of GOD's justice (a method terribly remarkable in many passages, and upon many persons, which we shall be compelled to remember in this discourse,) that the same principles, and the same application of those principles should be used to the wresting all sovereign power from the crown, which the crown had a little before made use of for the extending its authority and power, *beyond it's bounds, to the prejudice of the just rights of the subject*. A SUPPOSED NECESSITY was then thought *ground enough* to create a power, and *a bare averment of that necessity* to beget a practice *to impose what tax they thought convenient* upon the subject, by writs of *ship-money* never before known, and a supposed necessity now, and a bare averment of that necessity, is as confidently, and more fatally, concluded a good ground to exclude the crown from the use of any power, by an ordinance never before heard of, and the same maxim of " salus populi suprema lex," which had been used to the infringing the liberty of the one, made use of for destroying the rights of the other."

Lord *Clarendon*'s hist. book. 5, page. 54.

too factious to grant money to the crown, when it was their interest and their duty to do so. This argument however, was *fully* refuted, and slept above a century in proper contempt, till the posterity of those, who had overthrown it, thought fit to revive the exploded absurdity. Trifling as the pretence was, yet it might much more properly be urged in favour of a *single person*, than of a *multitude*. The counsels of a monarch may be more secret. His measures more quick. In passing an act of parliament for all the colonies, as many men are consulted, if not more, than need be consulted, in obtaining the assent of every legislature on the continent. If it is a good argument for parliament, it is a better against them. It therefore proves nothing but its own futility. The *supposed advantages* of such a power, could never be attained but by the destruction of† *real benefits*, evinced by facts to exist without it. The *Swiss Cantons*, and the *United Provinces*, are combinations of independent states. The voice of each must be given. The in-

† Thus the patriots of *Charles*'s days argued——"It is not, that *ship-money* hath been levied upon us, but it is, that thereby ship-money is *claimed*, which is the gift and EARNEST PENNY OF ALL WE HAVE: it is not, that our persons have been imprisoned, for the payment of ship-money, but that our PERSONS and LIVES are, upon the *same ground of law* delivered up to *will and pleasure*. It is, that our BIRTH-RIGHT is destroyed, and that there hath been an endeavour to reduce us to a *lower state than villainage*. The lord might tax his *villain* de haut et de basse, might imprison him, but—his LIFE was *his own*; THE LAW SECURED HIM THAT." Lord *Clarendon*.

stance of these colonies may be added: for stating the case, that no act of internal legislation over them had ever been past by *Great-Britain*, her wisest statesmen would be perplexed to shew, that she or the colonies would have been less flourishing than they now are. What benefits such a power may produce hereafter, time will discover. But the *colonies are not dependent on Great-Britain*, it is said, if she has not a supreme unlimited legislature over them. "I would ask these loyal subjects of the king (says the author of a celebrated invective against us) † what king it is, they *profess* themselves to be loyal subjects of? It cannot be his present most gracious majesty, *George* the third, king of *Great-Britain*, for his title is founded on *an act of parliament*, and they will not surely acknowledge that parliament can give them a king, which is of all *others*, the highest act of sovereignty, when they deny it to have power to tax or bind them in any other case; and I do not *recollect*, that there is any act of assembly, in any of the colonies for settling the crown upon king *William*, or the illustrious house of *Hanover* *." "Curious reasoning this."

† See note on these words——"Therefore a power of regulating our trade, involves not in it the idea of a supreme legislature over us."

* "The *controversy* between *Great-Britain* and her colonies reviewed." The learned gentleman who wrote this piece, has thought proper to quit his argument, step out of his way, personally abuse and severely attack the writer of

† It is to be wished the gentleman had "*recollected*," that without any such "act of assembly," none of the colonists ever rebelled. What *act of parliament* is here meant? Surely not the 11th of

the "Farmer's Letters." His principal objections are the following, and the answers here given may perhaps be sufficient to shew with what force his objections are generally urged. 1st. He says, "the writer of the letters, tell us, that the drawbacks which are allowed on some articles upon their exportation from *England*, amount to more money than all the duties together which are laid upon them on their arrival in the colonies will produce. I believe it is the first time that the colonies of any state have complained of the injustice of the mother country in laying taxes upon them, which were not *sufficiently heavy*, nor was it ever before discovered that the proper means to redress the grievances of any people, were to *increase their taxes*" Page 16. *Answer*. The truth of the assertion in the letters is not denied. It is assumed, by the author of the "controversy," as the foundation of his argument. If then, parliament would have raised *more* money, "*by stopping* the drawbacks, than by laying the duties to be paid *in* the colonies," *why* were they laid? From respect for parliament it must be supposed, they were laid for *some* purpose. It was not for the sake of the money. For what then? To establish a PRECEDENT for *taxing* the colonies, says the writer of the letters. The author of the controversy does not deny it; but enters into a dissertation upon the *more* and the *less*, which is not the point in question. 2dly. The writer of the letters says, that "an *act of parliament* commanding us to do a certain thing, if it has any validity, is a *tax* upon us, for the *expence* P that accrues in complying with it." In reply to this, the author of "the controversy" enumerates many instances of sovereignty *subjecting the colonies to expence*, which he supposes may be legally exercised WITHIN

P This sentence related to the dissolution of the assembly of *New-York*, for not complying with the act of parliament for supplying the troops.——Last session of parliament an act was passed for the more *commodious* quartering of the troops in *America*. It is not yet come over; but deserves the attention of the colonists, even if it has not the remarkable features, that distinguish the productions of the last session.

† Idem. page 17.

Henry the seventh, chapter the 1st, in favour of a king *de facto*.——Probably the 12th and 13th of *William* the 3d, chapter the 2d, "for the further limitation of the crown, &c." is intended. And, is

the colonies "BY ACT OF PARLIAMENT." Pages 23, 24. *Answer*. The propriety of this supposition is denied, and remains to be proved. "Absurdities and contradictions" are plentifully attributed to the writer of the letters, because he will not acknowledge, that the power of parliament "to regulate trade, and preserve the connection of the whole empire in due order," involves in it a power to "*tax* the colonies," or "to put them to *any expence*," parliament *shall please*. A person of such sagacity as the author of the controversy, might plainly have perceived, if his resentment had not prejudiced his candor, that the writer of the letters, was unwilling to give up any point, which he *then* thought essential to the freedom and welfare of his country, and at the same time was [q] unwilling to propose any new subject of dispute. Justly has the

[q] "If any person shall imagine that he discovers, in these letters, the least dislike of the dependence of these colonies on *Great-Britain*, I beg that such person will not form any judgment on *particular expressions*, but will consider the *tenor of all the letters taken together*. In that case, I flatter myself, that every unprejudiced reader will be *convinced*, that the true interests of *Great-Britain* are as dear to me, as they ought to be to every good subject.

"If I am an *enthusiast* in any thing, it is in my zeal for the *perpetual dependence* of these colonies on their mother country.—A dependence founded on *mutual benefits*, the continuance of which can be secured only by *mutual affections*. Therefore it is, that with extreme apprehension I view the smallest seeds of discontent, which are unwarily scattered abroad. *Fifty* or *sixty* years will make astonishing alterations in these colonies; and this consideration should render it the business of *Great-Britain* more and more to cultivate our good dispositions towards her: but the misfortune is, that those *great men* who are wrestling for power at home, think themselves very slightly interested in the prosperity of their country *fifty* or *sixty* years hence, but are deeply concerned in blowing up a popular clamour for supposed *immediate advantages*.

"For my part, I regard *Great-Britain* as a *bulwark*, happily fixed between these colonies and the powerful nations of *Europe*. That kingdom remaining safe, we, under its protection, enjoying peace, may diffuse the blessings of religion, science, and liberty, through remote wildernesses. It is therefore incontestibly our *duty*, and our *interest*, to support the strength of *Great-Britain*.

it imagined, that the words "dominions and territories thereunto belonging" in that statute, form his majesty's title to the sovereignty of these colonies? The omission of them might have looked odd; but

author of the controversy observed——that "it would be endless to trace this doctrine of *taxes through all the consequences*." page. 23. 3dly. The writer of the letters says, "we are as much dependent on *Great-Britain*, as a perfectly free people can be on another." On this the author of the controversy kindly observes, that "it is a pity the learned editor (the *English* editor, it is supposed) has not given the public a dissertation on that most ingenious and instructive passage."

When confiding in that strength, she begins to forget from whence it arose, it will be an easy thing to shew the source. She may readily be reminded of the loud alarm spread among her merchants and tradesmen, by the universal association of these colonies, at the time of the *stamp-act*, not to import any of her *manufactures*.

"In the year 1718, the *Russians* and *Swedes* entered into an agreement, not to suffer *Great-Britain* to export any *naval stores* from their dominions but in *Russian* or *Swedish* ships, and at their own prices. *Great-Britain* was distressed. *Pitch* and *tar* rose to *three pounds* a barrel. At length she thought of getting these articles from the colonies; and the attempt succeeding, they fell down to *fifteen shillings*. In the year 1756, *Great-Britain* was threatened with an invasion. An easterly wind blowing for six weeks, she could not *man* her fleet, and the whole nation was thrown into the utmost consternation. The wind changed. The *American* ships arrived. The fleet sailed in ten or fifteen days. There are some other reflections on this subject, worthy of the most deliberate attention of the *British* parliament; but they are of such a nature, that I do not choose to mention them publicly. I thought it my duty, in the year 1765, while the *stamp-act* was in suspence, to write my sentiments to a gentleman of great influence at home, who afterwards distinguished himself, by espousing our cause, in the debates concerning the repeal of that act.

FARMER'S LETTERS, xii.

If the author of "the controversy" had seen the letter above referred to, he would have found, that, the difference between the PREROGATIVE in *Great-Britain* and in *America*, and the exercise of *internal legislation* by parliament over the colonies, with some other points therein mentioned, were represented in the strongest terms the writer of the letters could use, as unjust, and certainly tending in a few years to produce the deepest discontents. The time is at length come, when silence in *America* on these subjects would be stupid or criminal.

what force is added by their insertion? The settlement of the crown of *England*, includes the settlement of the sovereignty of the colonies. King *William* is mentioned——and will the gentleman

page. 25. *Answer. American* understandings discover no inconsistency in the idea of "a state being dependent, and yet perfectly free," and their temper is so moderate that they would be content with that degree of freedom, which is compatible with a dependence. If the proposition puzzles *British* understandings, it is presumed to be, because *Britons* will not give themselves the trouble to think of any dependence, but of *such* as is destructive of *all* freedom; though they themselves are dependent in some measure on others. 4ly. The writer of the letters says——"if money be raised upon us by *others* without our consent for our defence, those who are the judges in levying it must also be the judges in applying it. [Of CONSEQUENCE, the money, *said* to be taken from us for our defence, *may be employed* to our *injury*. We may be [r] chained in by a line of fortifications——obliged to pay for the building and maintaining them—and be told that they are for our defence] With what face can we dispute the fact after having granted that those who *apply* the money, had a right to *levy it*? For surely it is much easier for their wisdom to understand how to apply it in the best manner, than how to levy it in the best manner. Besides the right of levying is of infinitely more consequence than *that of applying*. The people of *England*, who would burst out into fury if the crown should attempt

[r] The *probability* of this measure taking place, is confirmed by the CANADA bill, a political device so extraordinary, as to excite surprize even in those colonists who live in the year 1774. By this bill, it is said, the *legislative* power is lodged in the governor and a few men, not less than seventeen nor more than twenty-three, appointed and removeable by the crown; and the government becomes wholly military.——*Trials by jury* are abolished, though multitudes of *English* subjects settled there on the incouragement given by the king's proclamation in 1763——The *French* laws are *restored*, and *all the country on the back of these colonies* is added to *Canada*, and *put under the same military government*. This is indeed to be "*chained in*." Nothing is wanting to complete the plan, but our money, to defray the expence of erecting *strong holds* among our woods and *mountains*, and to bribe our *Indians*; and then the expression of "*beating our swords into plough-shares*" will be reversed in an extraordinary manner; for our "plough-shares" will furnish the very "swords" that are to cut our own throats.

venture to say, that *William* was not king of *England*, and sovereign of these colonies, before his title was "declared" or "recognized" by "an act of parliament?"——The gentleman slurs over

to *levy* money by its own authority, have always assigned to the crown the *application* of money."

From these words relating to "application" the author of "the controversy" deduces a "proof," that the writer of the letters is very deficient in "his knowledge of the constitution," [s] &c. *Answer.* Is this treatment generous? In such questions ought the attack to be turned from the *cause* to the *man?* The writer of the letters, pretends not to be distinguished, as a "critic on government" nor for "justness or elegance of composition." [t] Surely, even the author of "the controversy" must now be convinced of his aversion to writing, as that performance, with all "the justness and elegance of its composision, knowledge of the subject handled, and constitutional learning displayed in it," and employed to pull to pieces the reputation of the writer of the letters, has not rouzed him during so many years since its publication, to make a single effort in vindication of his character. Was it imagined, that every objection was just, because not replied to? Many reasons, besides a fear of encountering objections, may prevent an answer. In truth, he cannot be called a *volunteer* author. He *never* DID, and *never* DARED to write, but *when* the honor or interest of his country was assaulted——when *duty* compelled every one to contribute what assistance he could in her defence——and when he hoped, the cause would draw some kind of a veil over his defects. He expected, he might escape as the *Spartan* youth did, with some slight censure for engaging *improperly armed*, but that his *motive* would excuse him from a severe one. How well founded the present reproach is, will now be considered. One would imagine, that a man of common sense on reading the foregoing extract from the letters, would understand the writer plainly to mean by "*levying*," the power of "*taxing*"——and by "*applying*," the power of "*employing*" the money

[s] Page 25.

[t] Pages 22 and 25.

this case. His zeal for the "illustrious house of *Hanover*," would be little gratified, by infering, that because the two houses with the consent of the nation, made a king, *therefore* the two houses can

raised by taxing; or in other terms, the *actual expenditure* of it. This meaning is evident——the conclusion being *express*, that "if *others* may be judges in *applying* money, OF CONSEQUENCE *it may be employed* to our injury"——and then follow some *instances*, in which it "may be *so* employed." All this is very clear. How then does the very ingenious gentleman open his way to the writer of the letters, to give him this violent blow? By a dexterity worthy of imitation——*if justifiable*. He *leaves out* of his quotation, *all the words* inclosed within the last crotchet, beginning at the words "*of consequence*" and ending at the words "our defence," *that shewed* beyond a possibility of doubt *in what sense* the word "*applying*" was used——*takes no notice* of the omission——imposes *another* sense on the word——and then insults, may it be said, over the supposed mistake of saying, "that the people of *England* have always assigned to the crown the *application* of money."

What sense *he* or *others* may assign to the word "application," is not the point: but whether the word, *taken in that sense* which the writer of the letters *expressly* annexed to it, is used *with propriety* by him, or whether it is used *in such a manner*, as to "prove he is very deficient in his knowledge of the constitution?" By *that* word, as he defines it, positively as language can declare any meaning, he intends, *the actual expenditure and* "*employment*" of money—and is the reader to be tricked out of *that definition*, and *another sense* shuffled in, merely to impeach a man's character by slight of pen?

HAS not the constitution "assigned to the crown the *actual expenditure and employment* of money?" Is not this power part of the *executive?* Does not Mr. justice *Blackstone* mention this power, to shew the vast influence of the crown?—He particularly takes notice of it with respect to the army—in these expressions—"*paid* indeed ultimately by the people, but *immediately* by the crown; raised by the crown; officered by the crown; commanded by the crown." [t]

[t] 1 BLACKSTONE, 330.

make laws. Yet that conclusion would be as justifiable as *this*——that the assent of the colonies to an election of a king by the two houses, or to the limitation of the crown by act of parliament, proves

Is not the word "application" used here too, not only properly, *as defined*, but properly, *in a constitutional sense?*

True it is, that the word is sometimes used as synonimous with *appropriation*, though this latter seems to be the fittest word to mean the *designation* of money to particular purposes in acts of parliament. Could it be possible, that the author of "the controversy" should imagine, the writer of the letters could be ignorant of such designation or appropriation of money by parliament, when one can scarcely open a book of statutes, without observing them? Parliament may accommodate grants of money to public necessities—and may call officers of the crown to account for money, but these powers no more prove the *actual expenditure and employment* of money to belong to parliament, than the power of calling officers of the crown to account for injurious leagues, or declarations of war, proves the power of parliament to make leagues or to declare war. Besides, it being contended against the colonies, that the "*sovereign power*" is lodged in king, lords, and commons, the same persons may *tax* and *expend*, to what excess and in what manner THEY PLEASE, while the colonies will have no KIND OF CONTROUL over them: and, that such an *union* of those powers, is unconstitutional and dangerous to the colonies in extreme, was the point the writer of the letter inoffensively ventured to insist on.

Exactly in the sense here contended for, are the words "appropriation" and "application" used in some of the best authorities. Bishop *Elly's*, in his tracts on liberty, page 31, says—"The parliament, at present, in granting money, does for the most part *appropriate* it to particular services, whereby the *application* of it is more effectually secured." "When any aids are given, the commons only do judge of the necessities of the crown, which cannot be otherwise made manifest to them, than *by inquiring*, how the money which hath been granted, and revenue of the crown, is *expended and applied*,"[u] "Out of the aids given by

[u] Words of the *commons* at a conference with the lords. *Parliamentary history.*

a right in parliament to bind the colonies by statutes "in all cases whatsoever." In such great points, the conduct of a people is influenced *solely* by a regard for their freedom and happiness. The colonies have no other head than the king of *England*. The person who by the laws of that realm, is king of that realm, is our king.

parliament. (which by the law of *England* are *appropriated*, and *ought to have been employed* in the common profit of the whole realm) *many large sums of money*, during the times of such heavy taxes upon the people, *have been diverted* under the head of *secret services*, and for *salaries*, *bounties* and *pensions*, &c." [v]

Some other unfairnesses there are in this famous piece, that need only be viewed, to be refuted; but of which, it may be said, if a "precedent" established by the respectable gentleman himself, can procure pardon for the expression, that "they are not intitled to notice." How could he venture to assert as he does, that—"the *purpose* of the letters was to excite resentment in the colonies against their parent country, and to push them on to a separation from her." The letters prove the contrary. Few men have exprest a warmer zeal for the connexion, than the writer of them! Yet his reputation is to be attacked on every account, and a charge even of *disloyalty* directly levelled against him. The author is welcome to take what other licenses he pleases in his reprehensions of the writer; but he ought not to have denied his integrity. Their *intentions* must stand the test of a tribunal, that decides for eternity. May they then appear equally pure.

True indeed are those words of lord *Clarendon*.——"Let no honest man that is once entered into the lists, think, he can by any skill or comportment, prevent these conflicts and assaults—but let him look upon it as a purgatory he is *unavoidably* to pass through; and constantly performing the duties of *justice*, *integrity*, and *uprightness*, depend upon PROVIDENCE, and time, for a vindication.

[v] Address of the house of *commons* to queen *Anne*.
Parliamentary history.

A DEPENDENCE * on the crown and PARLIAMENT of *Great-Britain*, is a novelty—a dreadful novelty.—It may be compared to the engine invented by the *Greeks* for the destruction of *Troy*.† It is full of armed enemies, and the walls of the constitution must be thrown down, before it can be introduced among us.

WHEN it is considered that the king, as king of *England*, has a power in *making* laws—the power of *executing* them——of *finally* determining on *appeals*—of calling upon us for *supplies* in times of war, or any emergency——that every branch of the *prerogative* binds us, as the subjects are bound thereby in *England*——and that all our intercourse with *foreigners* is regulated by parlia-

* This word "dependence" as applied to the states connected with *England*, seems to be a new one. It appears to have been introduced into the language of the law, by the commonwealth act of 1650. A "dependence on parliament" is still more modern. A people cannot be too cautious in guarding against such innovations. "The credentials of the imperial embassadors to the states of *Holland*, were directed—"*to our faithful and beloved.*" The words seem to be very kind; but the cautious states discovered that this was the stile of the imperial chancery in writing to the *vassals of the empire*. The question was, whether the credentials should be opened? and it was urged, that a solemn embassy ought not to be disappointed, for a few trifling words. But the states resolved to send them back unopened, which they did. Other credentials were then sent, with a proper direction; and the embassadors were well received." Arcana imp. det, page 196.

† 7 Co 18.

ment.———Colonists may "surely" be acknowledged to speak with truth, and precision, in answer to the "elegantly" exprest question—"what king *it* is," &c. by saying that "his most gracious majesty *George* the third," *is* the king of *England*, and therefore, "*the king*," they——profess themselves to be "*loyal subjects of?*"

We are aware of the objection, that, "if the king of *England* is therefore king of the colonies, they are subject to the general legislative authority of that kingdom." The premises by no means warrant this conclusion. It is built on a mere supposition, that the colonies are thereby acknowledged to be *within the realm*, and on an incantation expected to be wrought by some magic force in those words. To be subordinately connected with *England*, the colonies *have contracted*. To be subject to the general legislative authority of that kingdom, they *never contracted*. Such a power as may be necessary to *preserve this connection* she has.—The authority of the *sovereign*, and the authority of controuling our intercourse with *foreign nations* form that power. *Such a power* leaves the colonies free. But a general legislative power, is not a power to preserve that connection, but to distress and enslave them. If the first power cannot subsist, without the last, she has no right even to the first,——the colonies were deceived in their con-

tract——and the power must be unjust and illegal; for God has given to them *a better right* to preserve their liberty, than to her to destroy it. In other words, supposing, king, lords and commons acting in parliament, constitute a *sovereignty* over the colonies, is that sovereignty constitutionally *absolute* or *limited?* That states without freedom, should *by principle* grow out of a free state, is as impossible, as that sparrows, should be produced from the eggs of an eagle. The sovereignty over the colonies, must be * *limited.*——*Hesiod* long since said, " half is *better* than the whole;" and the saying never was more justly applicable, than on the present occasion. Had the unhappy *Charles* remembered and regarded it, his private virtues might long have adorned a throne, from which his public measures precipitated him in blood. To argue on this subject from other instances of parliamentary power, is shifting the ground. The connection of the colonies with *England*, is a point of an unprecedented and delicate nature. It can be compared to no other case; and to receive a just determination, it must be considered with re-

* " *Nec* REGIBUS *infinita aut libera potestas*, was the constitution of our *German* ancestors on the continent, and this is not only consonant to the *principles* of *nature*, of *liberty*, of *reason*, and of *society*, but has always been esteemed an express part of the COMMON LAW of *England*, even when *prerogative was at the highest.*" 1 BLACKSTONE, 233.

ference to its own peculiar circumstances. † The common law extends to colonies; yet mr. justice

† The learned judge, (in vol. 1. pag. 107.) says this country was not "*uninhabited* when discovered and planted by the English, &c. but ought to be considered as a *conquered*, *ceded*, or *infidel* country. Our *American* plantations are principally of this latter sort, being obtained in the last century, either by right of *conquest* and *driving out* the natives (with what natural justice, I shall not at present inquire) or by *treaties*: and therefore the common law of *England*, as such, has no allowance or authority there, they being *no part* of the mother country, but distinct (though dependent) dominions. They are subject however to the controul of the parliament."

According to this doctrine, the colonists are considered *in a legal view* by the parent state, "as *infidels* or *conquered people*," not as her children with her consent establishing societies for her benefit. Though not a single man of the "infidels or conquered" people, should now be found to reside in each colony; yet a political contagion is communicated to *Englishmen in secula seculorum*, because *Indians* once fished in the rivers, and hunted in the woods. If *this* be their "*condition*," then according to the law laid down by the judge, "they are subject not only to the controul of *parliament*," but the "*king* may *alter* and *impose* what laws *he pleases*." *

It is not known, what the learned judge means by the word "*principally*," perhaps he alludes to the ill directed *humanity* and *justice* of the first settlers of some colonies, who purchased the lands from the natives, for valuable and satisfactory considerations. It was a very useless exercise of their virtues, for their posterity. If they had *by accident* settled an "*uninhabited*" country, the invaluable rights of the common law would have *attended* them; but when they *dared* to obtain a settlement by *humanity* and *justice*, they *forfeited* all rights of the common law to the latest succeeding ages. *Can this be law?* Every case quoted by the judge, it is humbly apprehended, makes a distinction between states or societies composed of *English subjects*, and those composed of "*conquered*" people, &c. and that *this* is the only distinction warrantable by those cases.

* 1 Blackstone, 107, and the cases there cited.

Blackstone says " such parts of the law as are neither *necessary* nor *convenient* for them, as the juris-

That the *conquerors* should be considered AS the *conquered*, the *expellers of the natives* AS the *expelled natives*, and the *christian possessors and owners by fair purchases from those who had a right to sell*, AS the *infidels no longer possessing or owning*, seems to involve a confusion of ideas, little agreeing with the strength of reason that informs the common law.

It is very remarkable, how our ablest antagonists are perplexed in framing their arguments against us. Even the learned judge does not express himself with his usual perspicuity: but the want of it is well atoned, if we, colonists, can be thereby deprived of the benefits of the *common law*, and be absolutely subjected to the *king*; for *these* courtly tenets are the *only* consequences deducible from the curious *argument* that tends to involve *these colonies* in the misfortunes of " *conquered*, *ceded*, or *infidel* countries." The " controul of parliament," is asserted to be supreme, in every case. Whether the colonies were settled in " uninhabited countries," or in " conquered, ceded, or infidel countries," makes no difference as to *that* point.

Another learned gentleman has discovered, that we " are not intitled to as great a degree of freedom as *Ireland*." Why? " Because *Ireland* was a *conquered* country." This remark does not seem to remove the difficulty. Let us hear the point a little more explained. " *Ireland* it is true was *conquered*, but certain *concessions* were made to the people. These were the terms granted them, but *England* is obliged to keep no terms with the colonists." At every step these gentlemen take, those writers, who have contributed so much to the glory of their country, turn upon them, and directly oppose them.——They at first shrink before these venerable advocates for liberty and humanity—but recollecting themselves, they distinguish and refine, in order to take away the substance of every argument, and to whittle down a *Hooker* and a *Locke* into a *Lestrange* and a *Filmer*.——After taking these liberties, they at length grow bold enough to arraign the authority of any man, even mr. *Locke* himself, if his writings cannot, by all this art, be turned to their purpose.

We need not be surprised after this, that every colonist, who ventures honestly, to assert, as well as he can, the cause of his native land, should be treated with little respect. The colonies have always been on the *defensive*. *It is*

diction of the spiritual courts, &c. are therefore not in force." If even the COMMON LAW, in force within the realm of *England*, when the colonists quitted it, is thus abridged by the peculiar circumstances of colonies, at least equally just, and constitutional is it, that the *power of making new laws* within the realm of *England*, should be abridged with respect to colonies, by those peculiar circumstances.‡

hoped they will always continue so. But the author of "the controversy" charges them with great cunning, a left handed wisdom, that must disgrace any people ———because they have not resisted, in places where they were not immediately attacked.———"It is the *artifice* of the managers, on the part of the colonies, to avoid *general* questions, and to keep back and conceal consequences, least the unsuspecting people of *England* should too soon catch the alarm, and resolve to withstand their first attempts at independency."[w]— That is——they have acted just as the "unsuspecting people of *England*" have done in their controversies with the crown. *They* confined themselves from time to time, to a demand of redress, for the injuries offered them. This behaviour of the colonists,would, by some persons, be deemed modest and respectful. Now indeed the conduct of administration demonstrates to us, that we must enlarge our views, and endeavour to take a prospect of all the mischiefs necesarily attending a claim of boundless power with an unbounded inclination to exercise it. The gentleman may perhaps call for fire and faggots to extirpate our political heresy; but we trust, and trust *firmly*, that, the sense and generosity of the good people of *England*, will discover and defeat the present plan against *their* liberties, as they have already so many other schemes of that tendency——that they will behold their dutiful children with compassionate love, and with just indignation those unrelenting enemies, from whom *they* can expect no other favour, but that *England* "shall be the last they will devour."

‡ The author of the controversy, in page 31 of his work, argues thus concerning the legislative power of *Great-Britain* over the colonies. "The lands

[w] Page 15.

THE laws of *England* with respect to prerogative, and in other instances, have accomodated

in all the colonies having therefore been clearly shewn to be part of the dominions of *Great-Britain*, and the possessors of them to hold them under authorities and titles derived from the *British* state, mr. *Locke* would require no other proof of the right of the legislative power of *Great-Britain* to the obedience of the possessors of those lands; for speaking of the manner by which a man tacitly makes himself a subject of any country or government, he says,——

" It is commonly supposed, that a father could oblige his posterity to that government of which he himself was a subject, and that his compact held them; whereas it being only a necessary condition annexed to the land, and the inheritance of an estate, which is under that government, reaches only those who will take it on that condition, and so is no natural tie or engagement, but a voluntary submission; for every man's children being by nature as free as himself, or any of his ancestors ever were, may, whilst they are in that freedom, choose what society they will join themselves to, what commonwealth they will put themselves under; but if they will enjoy the inheritance of their ancestors, they must take it on the same terms their ancestors had it, and submit to all the conditions annexed to such a possession." " Whoever (says he in another place) by inheritance, purchase, permission, or otherways, enjoys any part of the lands *so* annexed to, and under the government of, that commonwealth, must take it with the condition it is under; that is, of submitting to the government of the commonwealth under whose jurisdiction it is, as far, forth as any subject of it." page 31. The ingenuity of the gentleman is here again remarkable. Mr. *Locke* in his eighth chapter on civil government " of the beginning of political societies," *immediately* before the words abovementioned " whoever by inheritance," &c. speaks of a man who " *unites* his person which was before free to a society for the *securing* and *regulating* of property, and *submits* to the community those possessions which he has or shall acquire, that do not already belong to any other government." These words the gentleman not thinking quite to his purpose *in this place*, separates from the words of his quotation, and so gives mr. *Locke's* conclusion without his premises. However three pages after, he is so candid, as to give the premises without the conclusion. How, or why? to support this most curious distinction,—that mr. *Locke*, in that celebrated part of his argument, where

themselves, without alteration by statutes, to a change of circumstances, the welfare of the people

speaking of "government taking the property of subjects," he says "*what property have I in that, which another may by right take from me when he pleases*," [x] "more so *more*" than that the supreme legislative power has no right to take the property of others without their consent, "for the *private use or purpose* of the legislative" So that according to this construction, the constitution of a well established government, or the freedom of a people, depends not on the great right which GOD has given them "of having a share in the government of themselves," whereby their property is secured, but merely, on the "*purpose*," to which the property taken from them without their consent, is *applied* by those who thus take it. And yet this gentleman has severely attacked the writer of the letters, for using the word "*purpose*," in a much *more confined* sense, in saying, a "tax is an imposition on the subject for the *sole purpose of levying money*."

Mr. *Locke*, in the preceding chapter, speaking of monarchy says, "that absolute power purifies not mens bloods. For if it be asked, what security or fence arises *in such a state*, against the violence and oppression of the *absolute ruler?* the very question can scarce be borne. They are ready to tell you it deserves death, only to ask after safety. Betwixt subject and subject they will grant there must be measures, laws and judges for their mutual peace and security: but as for the *ruler, he ought to be absolute, and is above all such circumstances:* because he has power to do more hurt and wrong, it is right when he does it. To ask how you can be guarded from harm or injury on that side, where the strongest hand is to do it, is presently the voice of *faction* and *rebellion*." But here our opponent may come in with another distinction. "Mr. *Locke* speaks here of an *absolute ruler*, not of *absolute rulers*. *Lilly* proves that there is the singular number, and the plural number. A power that mr. *Locke* would have held illegal in a *Pisistratus* or a *Stuart*, he would have held legal in the *four hundred* of *Athens*, or the *parliament* of *Great-Britain*." Let the distinction be allowed its due weight. Can it be believed that such a friend to mankind, as Mr. *Locke* was, could ever think *absolute dominion* [y] just

[x] Page, 33.

[y] "*Absolute dominion however placed*, is so far from being one kind of *civil society*, that it is as *inconsistent* with it, as *slavery* is with *property*."
Locke, on civil govt. page 174.

so requiring. A regard for that grand object perpetually animates the constitution, and regulates

or legal? Would not such a sentiment directly oppose those principles, his benevolence induced him to take so much pains to vindicate and establish? Would the sound of the words——" dependence——" " subordination——" " within the realm——" " part of the dominions——" &c. have convinced him, that it was " the indispensible duty of parliament to ease the gentry and people of *Great-Britain* by TAXING the colonists without their consent?"—— and that it was the indispensible duty of the colonists *on constitutional principles* to submit to such taxation? The learned say that the too rigid attention of the mind to one idea sometimes is the cause of madness. So rigid has been the attention of many heads in *Great-Britain* to the idea of *dependence*, that it seems to have occasioned a kind of insanity in them; and by ruminating, speechifying, and enacting about it and about it, they have lost all ideas of justice, humanity, law and constitution, and in short of every quality that used to distinguish men from the rest of this creation, and *Englishmen* from the rest of mankind. But mr. *Locke*'s understanding, even in the present whirl of the political world, would have preserved him, just and tenacious of his principles. The case he puts, and on which the author of " the controversy" argues, is that of *a submission to the terms of government in a commonwealth*. The question between *Great-Britain* and the colonies, is, *what are the terms* of their connection under all the circumstances of it.

It is not recollected that mr. *Locke* ever insinuates, that the parliament of *Great-Britain* might bind the people of *Ireland* by statutes, " *in all cases whatsoever*." Yet there was in his time a famous dispute concerning the authority of parliament over that kingdom. So far was he from favouring the claim of parliament, that it is hoped, it can clearly be proved, he favoured the other side of the question.

His friend mr. *Molineux*, in a letter dated *March* 15, 1697-8, tells him of his intentions to visit him—when he could get loose from business: " but this I cannot hope for, till the parliament in *England* rises. I should be glad to know from you, when that is expected, for indeed they bear very hard upon us in *Ireland*. How justly they can bind us, *without our consent and representatives*, I leave the author of the two treatises on government to consider"

all its movements——unless unnatural obstructions interfere——

" *Spiritus intus alit, totamque infusa perartus*
" *Mens agitat molem, & magno se corpore miscet.*"

ANOTHER argument for the extravagant power of internal legislation over us remains.——It has been urged with great warmth against us, that " *precedents*" shew this power is rightfully vested in parliament.

—meaning mr. *Locke*'s two treatises—one on government—the other on civil government; though they are published also as one treatise, the first book of which is under the first title, and the second book under the second title.

Mr. *Locke*, in his answer dated *April* 6, 1698, says, " amongst other things I would be glad to talk with you about, before I die, is that which you suggest at the bottom of the first page of your letter. I am mightily concerned for the *place* meant in the question you say you will ask the author of the treatise you mention, *and wish extremely well to it*, and would be very glad to be informed by you *what would be best for it*, and debate with you the way to compose it: but this cannot be done by letters: the subject is of too great extent, the views too large, and the particulars too many to be so managed.——Come *therefore* yourself, *and come as well prepared as you can*. But if you talk with others on *that* point there, *mention not me to any body on that subject*; only let *you* and *I try what good we can do for those whom we wish well to*; great things have sometimes been brought about from small *beginnings well laid together*."

Mr. *Molineux* quickly after came over from *Ireland* to *England*, to see mr. *Locke*.

SUBMISSION to unjust sentences proves not a *right* to pass them. Carelessness or regard for the peace and welfare of the community, may cause the submission. Submission may sometimes be a less evil than opposition, and therefore a duty. In such cases it is a submission to the *divine authority*, which forbids us to injure our country; not to the *assumed authority*, on which the unjust sentences were founded. But *when* submission becomes inconsistent with and destructive of the *public good*, the same veneration for and duty to the *divine authority*, commands us to oppose. The all wise Creator of man imprest certain laws on his nature. A desire of happiness, and of society, are two of those laws. They were not intended to destroy, but to support each other. Man has therefore a right to *promote* the *best* union of both, in order to enjoy both in the *highest* degree. Thus, while this right is properly exercised, desires, that seem *selfish*, by a happy combination, produce the welfare of *others*. "This is removing submission from a foundation unable to support it, and injurious to the honour of GOD, and fixing it upon much firmer ground.*

No sensible or good man ever suspected mr. *Hooker* of being a *weak* or *factious* person, "yet

* Hoadley's discourse on government.

he plainly enough teacheth, that a society upon experience of universal evil, *have a right* to try by *another* form to answer more effectually the ends of government"—and mr. *Hoadley* asks—"would the *ends of government* be destroyed, should the miserable condition of the people of *France*, *which hath proceeded from the king's being absolute*, awaken the thoughts of the wisest heads amongst them; and move them all to exert themselves, so as that those ends should be better answered for the time to come?"

WHAT mind can relish the hardy proposition, that because precedents have been introduced by the inattention or timidity of *some*, and the cunning or violence of *others*, *therefore* the latter have a *right* to make the former miserable——that is, that precedents that ought never to have been set, yet being set, repeal the eternal laws of natural justice, humanity and equity.*

* ————"I could never think
"A mortal's law of power or strength sufficient
"To abrogate the unwritten law divine,
"Immutable, eternal, not like these
"Of *yesterday*, but made e'er time began"
Sophocles's Antig. Frank. Transl.

It should be considered, whether it ever was or ever can be the true interest of a kingdom or state, to violate the laws of natural justice, equity and humanity. These laws may be called the laws of GOD. Can they be broken with impunity? The scriptures are full of lessons on this subject, and history fur-

THE argument from precedents begins unluckily for its advocates. The *first* produced against us by the gentleman before mentioned, was an act passed by the *commonwealth* parliament in 1650 to "punish" *Virginia*,† *Barbadoes*, *Antigua*, and *Burmudas*, *for their fidelity to Charles the second*. *So ancient* is the *right* of parliament to "*punish*" colonists *for doing their duty*. But the parliament had before overturned *church* and *throne*, so that there is an older "precedent" set against these.

THAT parliament sat amidst the ruins that surrounded it, fiercer than *Marius* among those of *Carthage*. Brutal power became an irresistible argument of boundless right. What the stile of

nishes instances sufficient to alarm oppressors, if they would attend to them.—All the glories of *Charles* the bold,—*Charles* the fifth,—*Philip* the second,—*Charles* the twelfth,—*Lewis* the fourteenth,——and a numerous list of distinguished princes, were overcast, when unrelenting cruelty came to preside over their resolutions. From *Athens* to *Genoa* the observation holds true. Let not the opinion be condemned as presumptuous, before it be fully inquired into. It is worth an inquiry.

England has been prosperous in many civil wars, but they were in defence of liberty. She never engaged in one against liberty.—— Would to Heaven, she would set the world the much wanted example of lenity in government.—— Mankind might gain by it. The other mode has been sufficiently tried, and proved to be impolitic and ruinous.

† This loyal, generous colony preserved its principles with such spirit, notwithstanding the oppression abovementioned, that in *January*, 1659, they threw off all obedience to the parliament, replaced the king's governor, and proclaimed *Charles* the second, several months before the restoration in *Europe*.

an *Aristotle* could not prove, the point of a *Cromwell*'s sword sufficiently demonstrated. Innocence and justice sighed and submitted——what more could they do? The restoration took place, and a *legal* parliament would not doubt but it had as extensive a right as an *illegal* one. The revolution succeeded, and with it *methods* for blending together the powers of the king and people in a manner before unknown. A new political alembic was fixed on the great principle of resistance, and in it, severe experiments were to be made on every other principle of the constitution. How the *boldness of ministers* and *contempt of the people* have increased since that period, not a man the least acquainted with *English* history can be ignorant. The colonies were in a state of infancy——still in a state of childhood. Not a single statute concerning them is recollected to have been past before the revolution, but such as related to the regulation of trade. "Precedents" were afterwards made, that, when they grew up, the authority of a *master* might succeed that of a *parent*.

Precedents, it is apprehended, are no otherwise regarded in the *English* laws than as they establish *certainty for the benefit of the people*——according to the maxim——"miserable is the servitude when the laws are *uncertain*." Precedents militating against the welfare or happiness of a peo-

ple, are inconsistent with the grand original principle on which they ought to be founded. Their supposed sanction increases in proportion to the repetitions of injustice. They must be void. In subjects of dispute between man and man, precedents may be of use, though not founded on the best reason. They cause a certainty, and all may govern themselves accordingly. If they take from an individual one day, they may give to him the next. But precedents to overthrow *principles*, to justify the *perpetual* oppression of *all*, and to *impair the power of the constitution*, though a cloud of them appear, have no more force than the volumes of dust that surround a triumphal car. They may obscure it: they cannot stop it. What would the liberties of the people of *England* have been at this time, if precedents could have made laws inconsistent with the constitution? Precedents tending to make men unhappy, can with propriety of character be quoted only by those beings, to whom the misery of men is a delight.

"If the usage had been immemorial and uniform, and ten thousand instances could have been produced, it would not have been sufficient; because the practice must likewise be agreeable to the *principles of the law*, * in order to be good: whereas

* This is a maxim of law, that——"a bad usage ought to be abolished."

this is a practice inconsistent with, and in direct opposition to the *first and clearest principles of the law*"†——to those *feelings of humanity*, out of which mankind will not *be reasoned*, when power advances with gigantic strides, threatening dissolution to a state——to those *inherent, though latent powers of society*, which no *climate*, ‡ no *time*, no constitution, no *contract*, can ever destroy or diminish."‖

A PARLIAMENTARY power of *internal legislation* over these colonies, appears therefore to us, equally contradictory to humanity and the constitution, and illegal.

† Letter on general warrants.—

‡ 1 Blackstone, page 245

‖ *Equal distribution* of *justice*, and *free enjoyment* of *property*, are the *great* objects of *society*: and no *time*, *precedent*, *statute*, or *institution* should *deter* men from keeping *these* UPPERMOST in their thoughts."

Mr. *Hume's* History of *England*.

"The jurisdiction of the star chamber, martial law, imprisonment by warrants from the privy council, and other practices of a like nature, though *established for several centuries*; were scarce ever allowed by the *English* to be parts of their constitution: *the affection of the nation for liberty still prevailed over all precedent, and over all political reasoning*: the exercise of these powers, after being long the source of secret murmurs among the people, was, in fulness of time, solemnly abolished, as illegal, at least as oppressive, by the whole legislative authority." id. To these instances may be added the late practice of general warrants that had the sanction of precedents, even since the revolution.

As to the second head, a power of regulating our trade, our opinion is, that it is legally vested in parliament, not as a supreme legislature over these colonies, but as the supreme legislature and full *representative* of the parent state, and the only judge between her and her children in commercial interests, which the nature of the case, in the progress of their growth admitted. It has been urged, with great vehemence against us, and seems to be thought their *fort* by our adversaries, ‡ "that a power of regulation is a power of legislation, and a power of legislation, if constitutional, must be universal and supreme in the utmost sense of the words. It is therefore concluded, that the colonists, by acknowledging the power of regulation, have acknowledged every other power. On this objection we observe, that according to a maxim of law, "it is deceitful and dangerous to deal in general propositions." The freedom and happiness of states depend not on ‡ *artful arguments*,

‡ Our chance of success would be slight indeed, if it depended on subtleties of reasoning. Who can resit the skilful and courageous attacks of those *Britons*, who have not long since distinguished themselves in the polemical fields? Have they not *proved* to the satisfaction of thousands, the non-existence of matter——the necessity of human actions——consequently the innocence of them——the comfortable mortality of the soul——that virtue is a name—vice a jest—liberty a nonentity——christianity an imposture—and, with due detestation be it mentioned; that "we have *no idea* of *power*, nor of any *being* endowed with any power, MUCH LESS of *one* endowed with infinite power?"

but on *a few plain principles*. The plausible appearance of the objection consists in a confused comprehension of several points, intirely distinct in their nature, and leading to consequences directly opposite to each other. There was a time, when *England* had no colonies. Trade was the object she attended to, in encouraging them. A love of freedom was manifestly the chief motive of the adventurers. The connection of colonies with their parent state, may be called a new object of the *English* laws. That her right extinguishes all their rights,——rights essential to freedom, and which they would have enjoyed, by remaining in their pa-

" With explosions of learning, and flashes of wit, these well trained troops would keep up a terrible fire of artillery and small arms against us undisciplined *Americans*. We must not meet them in the shock of battle. *That would be madness in the extreme*. We must make the most of our *natural* advantages.—*There* we are *safe*; and all the forces that can be brought to the assault, will never be able to prevail against us. To drop the metaphor. " Inquiry ceases to be rational, and becomes both whimsical and pernicious, when it advances as far as some late authors have carried it, to controvert the first principles of knowledge, morality, religion, and consequently the fundamental laws of the *British* government, and of all well regulated society."

Mr. *Beattie* on truth.

It has been asserted by some men distinguished as historians, that the zeal of the reformers in religion engaging them to think liberally on that subject, led them to think with like freedom in civil affairs, whereby the government of *England* received its greatest improvement.——If the sentiment is just, may it not be inferred, that contempt for religion, must necessarily introduce an indifference for all the just rules of government and the principles of the constitution.?

rent state, is offensive to reason, humanity, and the constitution of that state. Colonies could not have been planted on *these* terms. What *Englishman*, but an ideot, would have become a colonist on these conditions? to mention no more particulars, "that every shilling he gained, might rightfully be taken from him——trial by jury abolished——the building houses, or making cloths with the materials found or raised in the colonies prohibited—— and armed men set over him to govern him in every action?"

HAD these provinces never been settled——had all the inhabitants of them now living, been born in *England*, and resident there, they would now enjoy the rights of *Englishmen*, that is, they would be free *in that kingdom*. We claim *in the colonies* these and no other rights. *There* no other kingdom or state interferes. But their trade, however important it may be, as the affairs of mankind are circumstanced, turns on other principles. All the power of parliament cannot regulate *that* at their pleasure. It must be regulated not by parliament alone, but by treaties and alliances *formed by the king without the consent of the nation*, with other states and kingdoms. *The freedom of a people consists in being governed by laws, in which no alteration can be made, without their consent.* Yet the wholesome force of these laws is *confined* to the li-

mits of their own country. That is, a supreme legislature to a people, which acts *internally* over that people, and inevitably implies *personal* assent, *representation*, or *slavery*. When an universal empire is established, and not till then, can regulations of trade properly be called, acts of supreme legislature. It seems from many authorities, as if almost the whole power of regulating the trade of *England* was originally vested in the crown. One restriction appears to have been, that no duty could be imposed without the consent of parliament. Trade was little regarded by our warlike ancestors. As commerce became of more importance, and duties, and severities were judged necessary additions to its first simple state, parliament more and more interfered. The constitution was always free, but not always exactly in the same manner. "By the feodal law, all *navigable* rivers and *havens* were computed among the regalia, and were subject to the sovereign of the state. And in *England* it hath always been held, that the king is lord of the whole shore, and particularly is guardian of the ports and havens, which are the inlets and gates of the realm; and therefore, so early as the reign of king *John*, we find ships seized by the king's officers, for putting in at a place that was not a legal port. These legal ports were undoubtedly at first assigned by the crown; since to each of them a court of portmote is incident, the juris-

diction of which must flow from the royal authority. The erection of beacons, light-houses, and sea marks is also a branch of the royal prerogative. The powers of establishing public marts, regulating of weights and measures, and the giving authority to, or making current, money, *the medium of commerce*, belong to the crown. By making peace or war, leagues and treaties, the king may open or stop trade as he pleases. The admiralty courts are grounded on the necessity of supporting a jurisdiction so extensive, though opposite to the usual doctrines of the common law. The laws of *Oleron* were made by *Richard* the first, and are still used in those courts." In the "mare clausum," are several regulations made by kings.* Time for-

* The power of regulating trade, was carried so far by the crown, as sometimes to impose duties; and queen *Elizabeth* obtained several judgments in the exchequer on such regulations. Lord chief justice *Coke* answers the argument founded on these—in 2 inst. 62, 65. Princes aimed at too much power——exceeded due bounds——their imprudence produced "grievances"——and the people who always suffer, when their rulers are weak or wicked, would no longer trust such *opportunities of oppression* in their hand.——The power of *impressing* seamen, shews the extensive authority in *naval affairs* trusted to "the crown."

1 BLACKSTONE, 419. Foster's rep. 154.

So extremely averse were the *English* to *foreign affairs*, and to the exercise even of parliamentary authority concerning them, that though the nation was justly provoked against the *French* king for the injury done to *Edward* the 1st. by withholding *Aquitaine* and his other inheritances (as lord chief justice *Coke* observes in his 2d inst. page 532.) and by some cruel actions of *Frenchmen* against *Englishmen*, and had in full parliament granted him aids, subsidies, for

bids a more exact inquiry into this point: but such it is apprehended, will on inquiry be found to have

the maintenance of his wars in foreign parts, yet in the CONFIRMATIONES CHARTARUM, Ed. 1st, therein taking notice, "that many men doubted, whether these grants *by parliament* might not turn *in servage of them* and their heirs, *as precedents*, expressly declares in those statutes, that such grants shall not be drawn into custom." The comment says—"it was holden that the subjects *of the realm* ought not to contribute to the maintenance of the king's wars *out of the realm*—but this matter was never in quiet, until it was more particularly explained by divers acts of parliament." The comment then mentions several acts declaring that no *Englishman* shall be bound to contribute to the king's wars *out of England*, in *Scotland*, *Guienne*, *Ireland*, *Calais*, (though *these three last* were countries *dependent on England*) and says, "these acts of parliament are but declarations of the ancient law of *England*—But here may be observed, that when any ancient law or custom of parliament" (such as before mentioned by making acts relating to foreign wars) "is broken, and the crown possessed of a precedent, how difficult a thing it is, *to restore the subject again to his former freedom and safety*." 2 Inst. 527—529.

The author of "the controversy," who with a liberality of sentiment becoming a pleader against freedom, and the best interest of mankind, counts, "statute books"—"ministers"——"king's council"——page 77, 78—"scraps of journals"——page 81. and ordinances of "the rump parliament"——page 87. among *his* "DEITIES" page 78; and grieves that we poor "*infidel*" colonists will not pay his idols the veneration his zeal judges due to them, has collected a good many fragments of proceedings in the house of commons from the year 1614 to 1628. The amount is this, that the ministers of the crown insisted, that parliament could not make laws for *America*; that the commons doubted; but at length in 1624, came to an opinion, that the king's patent for "a *monopoly* of fishing on the *coasts of America* was a *grievance*,"——that a "*clause of forfeiture*" against those who interfered in the fishery was void—and past a bill "for a *free* liberty of *fishing*," &c. It appears in the debates that the fishery was free *before the patent was granted*——These extracts do not shew, what became of the bill in the house of lords. One mr. *Brooke* said in 1621—"We may make laws here for *Virginia*, for *if the king gives consent* to this bill past here and by the lords, this will controul the patent."

been the power of the crown, that our argument may gain, but cannot lose. We will proceed on a concession, that the power of regulating trade is vested in parliament.

COMMERCE rests on concessions and restrictions mutually stipulated between the different powers of the world ;† and if these colonies were sovereign states, they would in all probability be restricted to their present portion,* The people of

It seems, as if the notion of the king's regulating power still prevailed, but, that "a clause of *forfeiture*" in such regulations was void. So much had the power of parliament grown since king *John*'s reign. Nor does it appear to have been unreasonable as commerce became of more consequence. The instance here mentioned, related to a regulation of trade; and however the king might have accommodated the point with the other branches of the legislature, the whole proceeding is immaterial. If it was a right actually enjoyed by *Englishmen* to fish on the coasts of a plantation——and a grant by the crown of the fishery to the people of the plantation excluding the people of *England*, could not *divest them* of their right——or, "if by the king's giving his consent to a bill passed by lords and commons,"——"the patent might be controuled"——it does not follow, that the king, lords, and commons could divest the people of the plantations of all *their* rights.

† Case of the *Ostend East-India* company.

* "Another light, in which the laws of England consider the king with regard to domestic concerns, is the arbiter of commerce. By commerce, I at present mean domestic commerce only. It would lead me into too large a field, if I were to attempt to enter upon the nature of *foreign trade*, its privileges, regulations, and restrictions; and would be also quite beside the purpose of these commentaries, which are confined to the laws of England. Whereas no *municipal laws can be sufficient to order and determine the very extensive and complicated affairs of traffic and merchandize; neither can they have a proper authority for this pur-*

England were *freemen*, before they were *merchants*. Whether *they* will continue *free*, they *themselves* must determine. *How they shall trade*, must be determined by *Germans*, *French*, *Spaniards*, *Italians*, *Turks*, *Moors*, &c. The right of *acquiring* property, depends on the rights of *others*: the right of *acquired* property, solely on the owner. The possessor is no owner without it. "Almost every leaf and page of *all* the volumes of the common law prove this right of property."† Why should this right be sacred in *Great-Britain*, "the chief corner stone" in the solid foundation of her constitution, and an empty name in her colonies? The lamb that presumed to drink in the *same stream* with a stronger animal, *though lower down the current*, could not refute the charge of incommoding the latter, by disturbing the water. Such power have reasons that appear despicable and detestable at first when they are properly enforced.

pose. For, as these are transactions carried on between subjects of independent states, the municipal laws of one will not be regarded by the other. For which reason the affairs of commerce are regulated by a law of their own, called the law merchant or *lex mercatoria*, which all nations agree in and take notice of. And in particular it is held to be part of the law of *England*, which decides the causes of merchants by the general rules which obtain in all commercial countries; and that often even in matters relating to domestic trade, as for instance, with regard to the drawing, the acceptance, and the transfer of inland bills of exchange."

† Parlia. hist.

FROM *this very principle* arose *her power:* and can *that* power now be *justly* exerted, in *suppression* of *that* principle? It cannot. Therefore, a power* of regulating our trade, involves not in it

* This distinction between a supreme legislature and a power of regulating trade, is not a new one. We find it clearly made, by the judges of *England*, at a period, when the modern profitable mode of blending together in parliament the authorities of the crown and people, had not extinguished all reverence for the principles of the constitution.

By the statute of the 2d of *Henry* 6th. ch. 4, *Calais* was confirmed a staple place for the wool exported from *England*, *Wales* and *Ireland*. Some wool shipped from this last kingdom, was consigned to *Sluice*, in *Flanders*. The ship by stress of weather was forced into *Calais*, where the wool was seized as forfeited. The chief question in the exchequer chamber was, whether the statute bound *Ireland*. In Rich. 3, 12, the case is thus reported. "Et ibi quoad ad primam questionem dicebant, quod terra *Hiberniæ* inter se *habet parliamentum* & omnimodo curias prout in *Anglia*, & per idem parliamentum faciunt leges & mutant leges, & NON OBLIGANTUR PER STATUTA IN ANGLIA QUIA, NON HIC HABENT MILITES PARLIAMENTI; sed hoc intelligitur DE TERRIS PRO REBUS IN TERRIS TANTUM EFFICIEND; sed PERSONÆ EORUM SUNT SUBJECTI REGIS et tanquam subjecti *erunt* obligati ad aliquam rem *extra terram illam faciendam* contra statutum, sicut habitantes in *Callesia*, *Gascoignia*, *Guienne*, &c. dum fuere subjecti; & obedientes erunt *sub admiralitate Angliæ de re facta super altum mare*; et *similiter* breve de errore de judiciis redditis in *Hibernia* in banco regis hic in *Anglia*."

Brooke, lord chief justice of the common pleas, mentions the case almost in the same words, title parliament 98—but 90 says—— "the chief justice was of opinion, that the statutes of *England* shall bind *Ireland*, which was *in a manner* agreed by the other justices; and yet it was denied the former day: YET *note*, that *Ireland* is a realm of itself, and *has a parliament in itself*."

Here it may be observed, *first*, that the reason assigned by the judges, why the statutes of *England* bind not the people of *Ireland*, though *specially named*, con-

the idea of supreme legislature over us. The first is a power of a preserving "protecting" na-

tains a constitutional principle, the sine qua non of freedom. *Secondly*, that the people of *Ireland*, as subjects of the king, were "*under the admiralty of England as to things done on the high sea;*" which is a strong confirmation given by the judges of *England*, to the supposition before made, of the power of regulating trade being formerly vested in the king. *Thirdly*, that the opinion of the chief justice, and of the other justices, such as it was, "reddendo singula singulis, & secundum subjectam materiam," proves at most, only that *Ireland* was bound *by statutes regulating their trade*, for such was the 2 *Henry* 6th. ch. 4th on which the case arose. *Fourthly*, that *Brooke*, a man of great eminence and dignity in the law, appears by his note, to have been dissatisfied with the judgment, tho' only on a statute of regulation, for *this* reason of such weight with an *Englishman*——"because *Ireland* is a realm of itself, and has a parliament within itself." *Fifthly*, that the authority of the crown, including the regulation of the trade of *Ireland*, and sending writs of error there, were sufficient restraints, to secure the obedience and subordination of that kingdom. This reason seems to have held its ground, till lord chief justice *Coke*'s time; and though a great reverence is entertained for his memory, yet it can never be acknowledged, that an "*obiter dictum*" of his, or of any other man, is a rule of law. In *Calvin*'s case, the chief justice reciting the foregoing case, says, "*Hibernia* habet parliamentum, and faciunt leges, & nostra statuta non ligant eos QUIA non mittunt milites ad parliamentum (which, adds he, is to be *understood*, unless they be *especially named*) And does the "especially naming them," give them a representation, or remove the injustice of binding them without it? This observation in plain English would run thus. "Our statutes do not bind the people of *Ireland*, when we *do not intend* to bind them, *because*, they are not represented in our parliament: but our statutes bind them, when we *intend* to bind them." What is this but saying——"that to speak of their not being represented, is a mere jargon; and the sole point is, whether it is our *will* to bind them"——or in other words——"that our statutes do not bind them, for a reason, as strong as man can give, and so acknowledged by us to be, which yet, is no reason at all: for, where there is no occasion, for its operation, it applies not; and where there is occasion, it is of no force."——His lordship had just before taken notice that "a writ of *error* did lye in the king's bench of *England* of an erroneous judgment in the king's bench of *Ireland*;" and perhaps that led him in the course of his argument to imagine, there might be a like pre-eminence

ture. The last, as applied to *America*, is such a power as mr. Justice *Blackstone* describes in these

of the parliament of *England* over that of *Ireland*. That this was his reason seems certain, because at a meeting of commissioners to consider of a projected union between *England* and *Scotland*, at which the chief justice was present.—Moor, 796, it is said "that parliament has power over *Ireland*, *as is proved* by that a writ of error may be brought of a judgment in the king's bench of *Ireland*." In the fourth inst. he also says the people of *Guernsey*, *Jersey* and *Man*, are not bound by the statutes of *England*, unless they are specially named. Yet whoever examines the statute relating to *Ireland*, *Guernsey*, *Jersey* and *Man*, will have very little cause to believe, that it has been thought in *England*, that statutes would generally bind the people of those countries, notwithstanding the subjection of *Ireland*, and the other islands, the many distresses of the former, and the weakness of the latter have afforded opportunities of extending such a power over them. With respect to all these places scarce a statute can be found of *any* period, but for the regulation of their trade. The same observation may be made as to *Gascoigny*, *Guienne* and *Calais*.——Justice *Wylde* in 2 *vent.* 5, said, "he had seen a charter whereby these places were recited *to* be united to *England by mutual pact*. And writs of error run there." "*Wales* was a conquered country, and the people submitted to *Edward* the first de *alto* et *basso*."

Whatever pretence the chief justice's opinion was founded on, it has been carefully repeated in many law books since. Whether his lordship meant, that statutes of *England* could *bind* the people of *Ireland*, in taking away trials by jury,——taxing them, and indeed, "*in all cases whatsoever*," or only in preserving their subordination, as by regulating their trade, which was the case referred to in his comment, does not appear. The parliament in declaring the dependence of *Ireland*, did not venture to claim a power of binding the people of that kingdom "in all cases whatsoever." [a] With respect to all these declarations, however, as they are made to refer to us, we may answer as the lion did to the man in the fable.

Much the same arbitrary construction has been made on the question; whether a man could be tried in *England* on a charge of committing treason in

[a] Nor, to this day does the *English* parliament tax them, &c. And therefore the inference is just, that neither they nor the chief justice meant such a power.

words, " whose enormous weight spreads horror and destruction on all inferior movements." The first is a power subject to a constitutional check. *Great-Britain* cannot injure us by taking away our

Ireland. In queen *Elizabeth*'s reign, " *Gerrade*, chancellor of *Ireland*, moved that question to the council of the queen, and it was held by *Wray*, *Dier*, and *Gerrarde*, attorney general, he could not, because he was a subject of *Ireland* and not of *England*, and if tried in *England*, he could not be tried by his peers." *Dier*, 360. Afterwards, to gratify the queen's resentment against some rebels, they were tried in *England*; and thus passion and complaisance made very good law against reason and justice.

Having mentioned *Calvin*'s case, it may not be improper to observe, that if the author of " the controversy" had taken the trouble of reading it, he might have found his perplexities removed on the question that has given him so much anxiety, and brought such a load of reproaches on the colonies. He is provoked at our insolence, for pretending to be any thing more than *aliens* in *England*, while we deny the power of parliament to bind us " in all cases whatever." In that case, the gentleman would have discovered, that the judges of *England* held, that a man born in *Scotland*, *under the allegiance of James* the first, after his accession to the throne of *England*, was intitled to all the rights of a subject born in *England*; though the objection, that statutes of *England* could not bind *Scotland*, or a man residing there, who held lands in *England*, was mentioned in the course of the argument. That great difficulty being got over, if the gentleman, will go a step farther, and perceive some little distinction between colonies proceeding out of the loins of *England*, and the " *conquered*" countries of *Ireland* and *Wales*,—the countries of *Gascoigny*, *Guienne*, and *Calais*, " *united by mutual pact to* England"——and the islands of *Guernsey*, &c. " *lying within the four seas*, *whose sovereigns annexed them to* England:" and will only allow the colonists a *little more* regard than is *profest* in law books for *those countries*, and *about as much* as has been *actually observed* towards them by parliament, he will have no further occasion to say severe things of those, who are willing to esteem him; and then, if he can persuade his worthy countrymen to adopt his sentiments, their anger will no longer give pain to those who almost adore them.

commerce without hurting herself *immediately*. The last is a power without check or limit. She might ruin us by it. The injury thereby to herself might be so *remote* as to be despised by her.

THE power of regulation was the only band that could have held us together; formed on one of those "original contracts,"——which only can be a foundation of just authority. Without such a band, our general commerce with *foreign nations*, might have been injurious and destructive to her. Reason and duty reject such a licence. This our duty resembles that of children to a parent. The parent has a power over them: but they have rights, which the parent cannot take away. Heaven grant that our mother country may regard us as her children, that if by the dispensation of Providence, the time shall come, when her power decreases, the memory of former kindnesses may supply its decays, and her colonies like dutiful children, may serve and guard their aged parent, for ever revering the arms that held them in their infancy, and the breasts that supported their lives, while they were little ones.

IT seems, as if the power of regulation might not inaptly be compared to the prerogative of making peace, war, treaties, or alliances, whereby

" *the whole** *nation are bound*, AGAINST THEIR CONSENT :" and yet the prerogative by no means implies a *supreme legislature*. The language held in " the commentaries" on this point is very remarkable. " With regard to *foreign concerns* the king is the *delegate* or *representative* of the people ; and in him, as in a *center*, all the *rays* of his people are united ;† and the SOVEREIGN POWER *quoad hoc* is vested in his person."‡ Will any *Englishman* say these expressions are descriptive of the king's authority, *within the realm*. " Is the SOVEREIGN POWER *within that* vested in his person ?" He is stiled " *sovereign*" indeed ; " his realm is declared by many acts of parliament an *empire*, and his crown *imperial*." But do these splendid appellations, the highest known in *Europe* signify, that " *sovereign* POWER is vested in his person *within the realm ?*" We have a full answer in the commentaries. " The *meaning* of the legislature, when it uses these terms of *empire* and *imperial*, and applies them to the realm and crown of *England*, is *only* to assert, that our king is equally *sovereign* and *independent* within these his dominions ; and *owes no kind of subjection* to any potentate upon earth." Thus *we* maintain, that with regard to *foreign affairs*, the parent original state, " is the *delegate* or *representative*," of the entire

* 1 Blackft. 252, 257. † Idem. 252. ‡ Idem. 257.

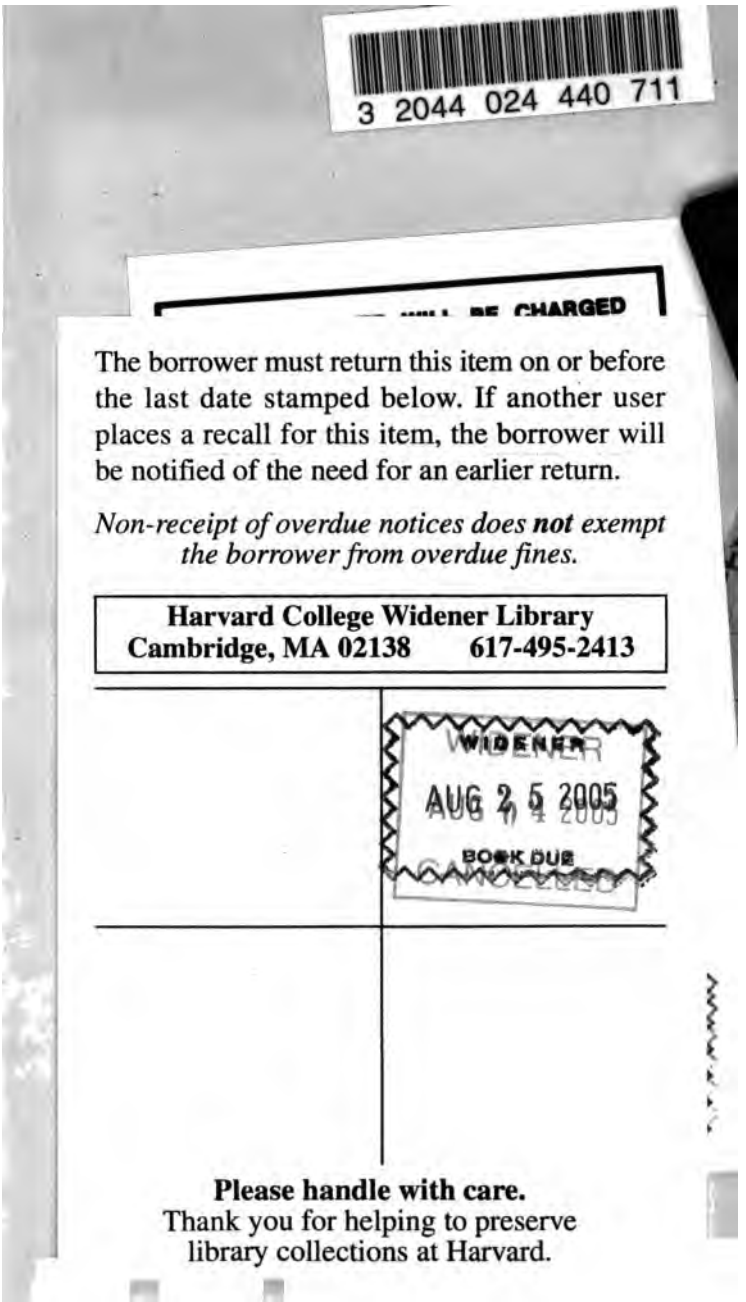
dominions, "the *sovereign power* QUOAD HOC is vested" in her. Her acts under this power, "irrevocably bind the whole nation." But yet this power by no means implies *a supreme legislature.*

THE exercise of this power *by statutes* was absolutely necessary; because it was, and could only be lodged, as the laws of the parent state stand, in the supreme legislature of that state, consisting of king, lords, and commons; and *statutes* are the modes by which their united sentiments and resolutions are exprest. It is universally acknowledged in *Great-Britain*, that it infers no power of *taxation* in king and lords, that their *limited* authority is used in cloathing, *gifts and grants of the commons* with the *forms of law*——nor does it infer *supreme legislature* over us, that the *limited* authority of king, lords, and commons is used in cloathing *regulations of trade* with the *forms of law.*

THIS power of regulation appears to us to have been pure in its principle, simple in its operation, and salutary in its effects. But for some time past we have observed, with pain, that it hath been turned to other purposes, than it was originally designed for, and retaining its title, hath become an engine of intolerable oppressions and grievous taxations. The argument of an eminent judge, states

the point in a similar case strongly for us, in these words.——" Though it be granted, that the king hath the *custody* of the *havens* and *ports* of this island, being the very *gates* of this kingdom, and is *trusted* with the *keys* of these *gates ;* yet the *inference* and *argument* thereupon made, I utterly deny. For in it there is *mutatio hypothesis*, and a *transition* from a thing of *one* nature to *another ;* as the *premises* are of a *power only fiduciary*, and in *point of trust and government*, and the *conclusion* infers a *right of interest and gain.* Admit the king has *custodiam portuum*, yet he hath but the *custody*, which is a *trust* and not *dominium utile.* He hath power to *open* and *shut*, UPON CONSIDERATION OF PUBLIC GOOD TO THE PEOPLE AND STATE, but not to make *gain* and *benefit* by it: the *one* is PROTECTION——the *other* is EXPILATION."

END OF THE FIRST VOLUME.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